

# EXHIBIT 4

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1                   \*\* ROUGH DRAFT - ADAM CHEPENIK \*\*

2 \* \* \* \* \*

3 Tara Gandel Hudson, RPR CRR

4 \* \* \* \* \*

5           This draft is unedited and uncertified and  
6       may contain an occasional reporter's note, a  
7       misspelled proper name and/or nonsensical word  
8       combinations. All such entries will be  
9       corrected on the final certified transcript.

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12 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

13

14 PROMESA TITLE III  
CASE NO. 17 BK 3283-LTS

15

In re: \_\_\_\_\_)

16

THE FINANCIAL OVERSIGHT

17 AND MANAGEMENT BOARD FOR )

PUERTO RICO, )

18 )

as representative of )

19 )

THE COMMONWEALTH OF PUERTO RICO, )

20 THE EMPLOYEES RETIREMENT SYSTEM OF )

THE GOVERNMENT OF THE COMMONWEALTH )

21 OF PUERTO RICO, AND THE PUERTO )

RICO PUBLIC BUILDINGS AUTHORITY, )

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Debtors. )

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(All appearing remotely.)

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9 For AmeriNational Community Services, LLC  
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1  
2 For the witness, Adam W. Chepenik:

3 Antoinette DeCamp  
4 ERNST & YOUNG  
5 Associate General Counsel  
6 Washington, D.C.

ALSO PRESENT:

7  
8 Matthew G. Pinos, Law Clerk, SRZ  
9 Paul Baker, Technician  
10 Justin Bond, Videographer  
11 Karen Patterson, Veritext  
12 Manny Valenciano, Veritext  
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1 THE VIDEOGRAPHER: Good morning. Today is  
2 October 20, 2021. We're on the record at  
3 9:30 a.m. Today we'll take a videotape



4 deposition in Case Number 17 BK 3283-LTS. This  
5 deposition is being held remotely.

6 Would you please swear the witness.

7 ADAM W. CHEPENIK,  
8 having been first remotely sworn to tell the truth,  
9 the whole truth and nothing but the truth relating  
10 to said matter, was examined and testified as  
11 follows:

12 DIRECT EXAMINATION,

13 QUESTIONS BY ARTURO J. GARCIA:

14 Q So here we go. First of all, good morning to  
15 all. And welcome to the deposition of  
16 Adam Chepenik.

17 Am I pronouncing your name correctly?

18 A You are.

19 Q Okay. Thank you. From Ernst & Young. EY,  
20 as -- pursuant to an AmeriNational Community  
21 Services LLC subpoena to testify at a deposition  
22 in a civil action.

23 For the record, my name is Arturo  
24 Garcia-Sola, McConnell Valdes LLC, appearing on  
25 behalf of AmeriNational Community Services, LLC,

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1 as a servicer for the GDB Debt Recovery  
2 Authority, the DRA, together with my colleagues  
3 from MCV, Alejandro Cepeda, Antonio Ramirez,  
4 Nayuan Zouairaban.

5 Also participating will be one or more  
6 attorneys from Cantor-Katz representing  
7 Cantor-Katz Collateral Monitor LLC. For  
8 Wilmington Trust of the firm of Schulte, Roth &  
9 Zabel.

10 I confirm the standard stipulations for  
11 deposition with counsel for EY and also for the  
12 FOMB. Regarding the usual objections,  
13 everything will be reserved until the hearing  
14 except as to form and privilege.

15 And also, I note for the record that  
16 objections by one party will be deemed as  
17 objections by all the parties.

18 I remind everybody, if I have to remind  
19 anyone, that the proceeding today is being  
20 remote -- is a remote proceeding; so just allow  
21 me to recognize that for the record.

22 Because we are proceeding remotely and  
23 everybody is in a different place and room -- I  
24 hope that everyone is keeping safe, by the way,  
25 on the COVID-19 situation -- I also hope that we

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1 can all be cognizant there's technical  
2 difficulties, and so I am hoping that we try to  
3 avoid speaking over each other and also that we  
4 treat each other with professional courtesy so  
5 that we can move as expeditiously as reasonably  
6 possible.

7 As to the exhibits, we will be using  
8 Veritex Egnyte platform, and my colleague  
9 Alejandro Cepeda will be marking and publishing  
10 any document that is used as an exhibit  
11 throughout the deposition. That is because I'm  
12 absolutely and totally incapable of managing the  
13 technical aspects of the Egnyte program so that  
14 everyone participating can have access to the  
15 exhibits and review the same.

16 Also, the witness and the witness's  
17 attorney will be able to manage the document by  
18 scrolling up or down and magnify the object so  
19 that you can take a look at the document.

20 So we are proceeding to take the deposition  
21 of Ernst & Young through the testimony of  
22 Mr. Adam Chepenik pursuant to the agreements

23 between the DRA parties and the FOMB, which have  
24 been approved and adopted by the court and are  
25 memorialized in a Court Order dated October 18,

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1 2021 -- that's Docket Number 18532 -- and EY's  
2 acknowledgment that it will be presenting a  
3 witness today, i.e., Mr. Chepenik.

4 So good morning to the witness, and thank  
5 you for your appearance here today.

6 Can you please state your full name for the  
7 record?

8 A Adam Chepenik.

9 Q Have you ever been deposed before?

10 A I have not.

11 Q Have you ever given testimony before at any  
12 trial or any hearing?

13 A Do you mean oral testimony or written?

14 Q Let's start with oral testimony.

15 A No, sir.

16 Q Have you ever presented written testimony to a  
17 Court?

18 A I filed a written declaration in connection with  
19 one of the many Puerto Rico cases.

20 Q Which was that Puerto Rico case?

21 A I do not recall which specific case it pertained  
22 to.

23 Q Was that one of the PROMESA cases?

24 A Yes. Yes, sir.

25 Q And do you recall whether that would be the main

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1 Commonwealth proceeding?

2 A I believe so, yes.

3 Q So when did you submit a declaration for that  
4 proceeding?

5 A I do not recall specifically, but to the best of  
6 my recollection, it was about a year or two ago.

7 Q All right. So it was not recent?

8 A No, sir.

9 Q So that declaration, if I may ask, would not  
10 have been related to the plan confirmation  
11 proceedings that are due to start November 8?

12 A That's --

13 MR. MERVIS: Sorry. I just need to break  
14 in here for a minute.

15 So Arturo, this is a request to the  
16 witness, but I just want to make sure we're all

17 on the same page.

18 That the agreement that you referenced  
19 earlier, which has been docketed, as I  
20 understand, it prohibits me as representative of  
21 the board from objecting to the form of a  
22 question unless Ms. DeCamp doesn't.

23 So the logistical problem with that is if  
24 the witness is answering your question fairly  
25 quickly, I won't be able to know whether

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1 Ms. DeCamp is going to object or not. I  
2 actually would have objected to the last  
3 question on the form basis.

4 So I would ask the witness to just please  
5 pause for, say, five seconds or so before  
6 answering the question so that I have the  
7 opportunity to do so if Ms. DeCamp doesn't.

8 Is that okay, Arturo?

9 MR. GARCIA: It's okay with me.

10 MR. MERVIS: Thank you.

11 MR. GARCIA: I'll allow you that courtesy.

12 MR. MERVIS: Well, I don't know any other  
13 way to do it, Arturo.

14 MR. GARCIA: It's okay. Don't worry.

15 MR. MERVIS: I'll object with a normal  
16 proceeding so --

17 MR. GARCIA: That's okay, Michael. All  
18 right.

19 BY MR. GARCIA:

20 Q So can I have the testimony read back, please.

21 (The requested text was read by the  
22 reporter.)

23 MR. MERVIS: So I object to the form.

24 BY MR. GARCIA:

25 Q You can answer.

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1 A I believe that to be correct.

2 Q Do you recall in general terms what the subject  
3 of that declaration was?

4 A I recall it was related to various Commonwealth  
5 laws as it pertains to PROMESA and either their  
6 applicability or their revenues associated with  
7 those laws.

8 Q Okay. You say, first, various -- "it had to do  
9 with various Commonwealth laws."

10 What laws are you referring to,

11 Mr. Chepenik?

12 A The declaration was filed, like I mentioned  
13 earlier, one to two years ago, and so I do not  
14 recall -- it was not one of the documents I  
15 reviewed in preparation for this deposition  
16 because it was not one of the topics that was  
17 requested and subpoenaed to EY to respond to.

18 Q Do you recall any laws that were part of that  
19 declaration or any law in particular?

20 A I do not recall the contents of the declaration  
21 in detail because it was not part of the -- one  
22 of the -- it was not pertinent to the questions  
23 that were subpoenaed for EY to respond to so --

24 Q I understand.

25 Do you recall if Act Number 30 of 2013 was

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1 included in that in any way?

2 MS. DeCAMP: Objection. Asked and  
3 answered.

4 MR. GARCIA: I'm just asking specific laws,  
5 Antoinette.

6 MS. DeCAMP: I understand. I understand.

7 A Should I answer?



8 MS. DeCAMP: You can answer.

9 BY MR. GARCIA:

10 Q Yes, answer.

11 A I do not recall.

12 Q What about Act Number 31 of 2013?

13 MS. DeCAMP: Objection. Asked and  
14 answered.

15 You can answer.

16 A I do not recall.

17 BY MR. GARCIA:

18 Q What about any Commonwealth law dealing with  
19 excise taxes?

20 MS. DeCAMP: Objection. Asked and  
21 answered.

22 You can answer.

23 A I do not recall.

24 BY MR. GARCIA:

25 Q In addition to the hearing at which you

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1 submitted a declaration for, have you ever had  
2 any participation in any hearing outside of  
3 PROMESA -- entirely outside of PROMESA in any  
4 capacity?

5 A I'm sorry. You need to be more specific. I

6 don't --

7 Q Okay, I will.

8 Outside of PROMESA, have you ever testified  
9 in any other hearing?

10 A No, sir.

11 Q So it's safe to say that the only time that you  
12 participated in a hearing was through the  
13 declaration you recall you submitted about a  
14 year and a half ago?

15 A If by "participation" you mean as a witness?

16 Q Well, in any capacity.

17 A Again, sir, I apologize for asking you to be  
18 specific but I've been working in the  
19 restructuring space for many years; so if you  
20 mean --

21 I understand what you're implying is as a  
22 witness to either written or oral form, and if  
23 that is the case, to the best of my  
24 recollection, this is the only time. Correct.

25 Q Okay. Good.

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1 Now you understand that you're testifying

2 under oath here today; correct?

3 A I do.

4 Q Is there anything that would prevent you from  
5 doing so like, for instance, you're taking any  
6 medication that may inhibit your recollection  
7 or, you know, affect your testimony?

8 A Not that I can -- not that I can think of that  
9 would --

10 Q Okay. So just a little bit about the logistics  
11 for the deposition before we start with the  
12 questioning.

13 I'll be asking you some questions about the  
14 topics that have been previously identified in  
15 the subpoena. Please try to answer all  
16 questions verbally so the court reporter can  
17 record your answer in the transcript of the  
18 deposition, notwithstanding that we are  
19 proceeding through video.

20 Also, please allow me to finish my question  
21 before you give your answer, just as I will try  
22 to wait until you finish your answer to my  
23 questions before proceeding to another question.

24 This is necessary to allow the reporter to  
25 transcribe accurately the record of the

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1 proceedings today.

2 If at any time you do not understand any  
3 one of my questions, please let me know, and I  
4 will try to rephrase the question so that you  
5 can understand it.

6 I'm not here to trick you. I want an  
7 accurate record of both my questions and your  
8 responses to the question. So again, if you  
9 don't understand, please let me know, and I will  
10 try to rephrase.

11 Now, you may hear objections, as you  
12 already have, before you give your answer.  
13 Please note that despite the objections, you are  
14 required to answer the questions, unless you are  
15 to be instructed by counsel not to answer a  
16 particular question.

17 Do you understand?

18 A I understand.

19 Q So also, should you need a break at any point in  
20 time, please let me know, and I will make sure  
21 that we get the break. Just try not to make --  
22 to ask for a break in the middle of a question  
23 or in the middle of a particular topic. But if

24           you need a break, just let me know, and we'll  
25           break.

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1           Sometimes it will be me who needs the  
2           break, by the way, not just you so we understand  
3           each other.

4    A   Understood.

5           Before we proceed, though, I do want to ask  
6           if we should take a very brief break now only  
7           because I tried to launch the Exhibit Share --

8    Q   Okay.

9    A   -- web browser, and it's saying I do not have an  
10          account. So I don't know if we should take a  
11          break now just to --

12   Q   Yes, let's do that. It's happened before. I  
13          think that there should be a concierge available  
14          to help you.

15          MR. GARCIA: Is there a concierge online or  
16          Karen?

17          THE VIDEOGRAPHER: We are off the record at  
18          9:44.

19          (A recess was taken.)

20          THE VIDEOGRAPHER: Back on the record at

21 9:50.

22 BY MR. GARCIA:

23 Q So I will start again.

24 Mr. Chepenik, by the way do you have --

25 (A discussion was held off the record to

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1 correct technical issues.)

2 MR. GARCIA: Hello, Karen, we're listening  
3 to you.

4 This is what I was referring to at the  
5 beginning when I was talking about technical  
6 problems with remote depositions. Sometimes  
7 they can be entertaining.

8 BY MR. GARCIA:

9 Q Mr. Chepenik, do you have any documents in front  
10 of you today?

11 A I do not, no.

12 Q So I'm going to ask for the first exhibit to be  
13 put on the screen. My colleague Alejandro is  
14 trying to do that.

15 Can you see the document on the screen,  
16 Mr. Chepenik?

17 A I can.

18 (Deposition Exhibit 1 was presented for  
19 identification.)

20 Q Have you seen this document before?

21 A If this is the subpoena to Ernst & Young LLP,  
22 yes, I have seen it.

23 MR. GARCIA: Can you please scroll down,  
24 Mr. Cepeda-Diaz, to Attachment A?

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1 BY MR. GARCIA:

2 Q Have you seen this part of the document before?

3 A I have, yes.

4 Q Outside of Topic Number 1, which your counsel  
5 has objected and I'm not going to get into, are  
6 you prepared to testify with respect to Topics 2  
7 through 6 appearing on that listing?

8 MR. MERVIS: Object to the form.

9 BY MR. GARCIA:

10 Q You can answer.

11 A To the best of my ability and to the extent  
12 Ernst & Young was involved in the process of  
13 preparing the budgets, certainly.

14 Q Okay.

15                   So you understand that you are a witness

16           designated by EY; correct?

17   A   Correct.

18   Q   And you understand that you have been designated

19           to testify based on your knowledge as to

20           Topics Number 2 to 6; correct?

21                   MS. DeCAMP:  Objection.

22   BY MR. GARCIA:

23   Q   You may answer.

24   A   To the best of my knowledge and to the extent

25           that Ernst & Young was involved in the budgetary

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1           process, yes, I'm prepared, and I understand.

2   Q   Did you prepare for the deposition today?

3   A   I did.

4   Q   Okay.  Can you tell me how you prepared for the

5           deposition?

6   A   I reviewed a number of documents, and I spoke

7           with a number of colleagues about the topics in

8           the subpoena.

9   Q   All right.  Let's break this down.

10                   With respect to documents, do you recall

11           what documents you reviewed to prepare for your



12 deposition?

13 A I do.

14 Q Can you tell me what those were.

15 A I reviewed the historical budgets that were  
16 certified by the oversight board; I reviewed the  
17 historical revenue letters that were issued by  
18 the oversight board to the government; I  
19 reviewed the -- I guess it was an objection to  
20 the proposed questions that was filed with the  
21 Court by Proskauer; I briefly reviewed the  
22 expert report submitted by Mr. Brickley and  
23 Ms. Hernandez.

24 Q And Ms. who?

25 A Not Hernandez.

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1 Q Martinez?

2 A Martinez. I apologize. Yeah, Ms. Martinez.

3 And I reviewed -- those are the primary  
4 things I would say I reviewed.

5 Q We'll come back to that in a minute, but you  
6 also said that you discussed with a number of  
7 colleagues; correct?

8 A Correct.

9 Q Okay. Can you tell me who were those  
10 colleagues?

11 A I spoke with colleagues of mine at Ernst &  
12 Young; and I spoke with counsel at Ernst &  
13 Young; and I spoke with representatives from  
14 Proskauer.

15 Q Starting with your EY colleagues, can you tell  
16 me who those were?

17 A Certainly.

18 So the primary people I spoke with at  
19 Ernst & Young were Juan Santambrogio, Sophia  
20 Panagiotakis.

21 Q I'm sorry, can you -- Sophia?

22 A Panagiotakis. She's Greek. And it's spelled  
23 more or less phonetically, but I can't recall  
24 off the top of my head.

25 Q Don't worry. We'll look it up.

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1 Who else?

2 A So Juan Santambrogio, Sophia Panagiotakis and  
3 Shavi Sarna were the three colleagues I spoke  
4 with. Oh, and --

5 Yeah, those are the three colleagues that

6 I --

7 And then Antoinette DeCamp as well.

8 Q Sure. I'm not going to get into discussions  
9 with your counsel Ms. DeCamp. Okay?

10 You also mentioned that you met with  
11 certain representatives from Proskauer; correct?

12 A Correct.

13 Q Who were those?

14 A The representatives from Proskauer I can recall,  
15 to the best of my recollection, were Margaret  
16 Dale, Michael Mervis, Julie Alonzo, and Michael  
17 Firestein, and Ehud Barak.

18 Q Sorry. And who?

19 A Ehud Barak.

20 Q Okay.

21 In addition to the persons that you've  
22 identified at EY, your counsel, and the  
23 Proskauer attorneys, did you meet with anybody  
24 from the FOMB, from the fiscal board, in  
25 preparation for the deposition today?

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1 A To the best of my recollection, no.

2 Q I'm going to ask you about some specific people.

3 Does that include Mr. David Skeel? Did you  
4 meet with him?

5 A Can I just clarify?

6 Are you speaking about in the context of  
7 this --

8 Q Preparing for your deposition?

9 A Correct. Okay.

10 My understanding, if that's the context,  
11 then the answer is, No, I did not speak with or  
12 meet with David Skeel.

13 Q Okay. And ask a different question then.

14 In connection with the topics that you will  
15 be testifying to today, not necessarily in the  
16 preparation, but did you discuss anything with  
17 Mr. Skeel on those Topics?

18 A In any capacity of preparation for the  
19 deposition today?

20 Q You already told me --

21 You already told me that you did not meet  
22 with Mr. Skeel in preparation for the  
23 deposition; correct?

24 A Correct.

25 Q All right. I'm asking you a different question

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1 now.

2 Had you discussed the topics that would be  
3 discussed in a deposition with Mr. Skeel at any  
4 point in time?

5 A I appreciate you clarifying.

6 MS. DeCAMP: Wait. Wait. Objection. I  
7 think it's still vague.

8 BY MR. GARCIA:

9 Q Do you understand the question?

10 A I think I understand the question. You're  
11 asking if I spoke with David in any capacity  
12 about it the deposition today.

13 Is that what you're asking?

14 Q About the topics that would be discussed in the  
15 deposition today. Again, not in the context of  
16 preparing for the deposition. Just in general.

17 A To the best of my recollection, I have not  
18 spoken with him about the topics that are  
19 subject to the declaration today -- or to the  
20 deposition today.

21 Q Okay.

22 Did you meet with any other board members  
23 in preparation for this deposition today?

24 MR. MERVIS: Just note my objection to the

25 form.

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1 BY MR. GARCIA:

2 Q You may answer.

3 You know who the board members are;

4 correct?

5 A I do know who the board members are, and, to the

6 best of my recollection, the answer is no.

7 Q All right. Did you discuss any of the topics,

8 not in preparation for this deposition, but in

9 any context with any of the board members aside

10 from Mr. Skeel?

11 MS. DeCAMP: Objection.

12 You can answer.

13 A You mean -- in what time frame do you mean have

14 I spoken with them?

15 BY MR. GARCIA:

16 Q In the last six months.

17 A To the best of my recollection, no, in the last

18 six months, I have not spoken with the board

19 member -- any board member about the topics that

20 are subject to the deposition today.

21 Q Do you recall if you discussed the topics at any

22 point in time with the board members?

23 A To the best of my recollection, I do not recall  
24 having spoken with them about these topics.

25 Q Okay.

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1 In preparation for your deposition today,  
2 did you meet with Natalie Jaresko, the executive  
3 director of the board, with respect to  
4 preparation for the deposition?

5 A To the best of my recollection, I have not, no.

6 Q Did you discuss any of the topics? Do you  
7 recall having discussed any of the topics with  
8 Ms. Jaresko before your preparation for the  
9 deposition at any point in time?

10 A To the best of my recollection, no, I do not  
11 recall having spoken with her about these  
12 topics.

13 Q Do you know of any --

14 Did you meet with any other, let's say,  
15 employee? Did you meet with any employee of the  
16 oversight board with respect to preparation for  
17 your deposition today?

18 Not the board members, not the executive

19 director, any other employees?

20 A To the best of my recollection, no, I have not.

21 Q Okay. So you testified that you reviewed  
22 historical budgets, budgets certified by the  
23 board, revenue letters, the objections submitted  
24 by Proskauer on the topics, and also the expert  
25 reports of both Mr. Brickley and Ms. Martinez.

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1 Aside from those documents, do you recall  
2 anything else that you may have reviewed in  
3 preparation for the deposition?  
4 A Well, I reviewed the subpoena, which we've  
5 already talked about. And the only other  
6 document I can recall having reviewed -- well, I  
7 did not mention fiscal plans, but I reviewed the  
8 historical fiscal plans. And I believe there  
9 was a September 10 letter from Proskauer that  
10 was sent, I believe, to the DRA parties that I  
11 briefly reviewed as well.

12 Q With respect to historical fiscal plans, do you  
13 recall which year you reviewed?

14 A The primary one I reviewed was the current  
15 fiscal plan. The current certified fiscal plan,



16 that was the primary one.

17 Q Is that the current fiscal plan for the  
18 Commonwealth?

19 A Correct.

20 Q Do you recall reviewing any fiscal plan for  
21 other instrumentalities of the government?

22 MR. MERVIS: Just note my objection to the  
23 form.

24 BY MR. GARCIA:

25 Q Do you understand the question?

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1 A In the context of preparing for this deposition?

2 Q Yes. Yes, sir.

3 A In the context of preparing for this deposition,  
4 to the best of my recollection, I did not review  
5 other fiscal plans.

6 Q In particular, did you review a fiscal plan for  
7 HTA? Do you know what "HTA" means? The Highway  
8 Transportation Authority?

9 A Yeah. There are two questions there. So I do  
10 know what HTA represents.

11 Q Okay.

12 A And if you're asking in connection with

13 preparing for this deposition, I did not review  
14 the HTA fiscal plan.

15 Q Other than in preparation for this deposition,  
16 have you reviewed any fiscal plan for HTA?

17 A Do you have a time frame?

18 Q In the last year.

19 A It is possible I may have looked at the HTA  
20 fiscal plan in the past year. I do not recall  
21 in any level of specificity the components of  
22 it.

23 Q But you have seen fiscal plans for HTA?

24 MS. DeCAMP: Objection.

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1 BY MR. GARCIA:

2 Q You may answer.

3 A I have seen fiscal plans of HTA.

4 Q Do you recall which one in particular you saw?

5 A I do, yes.

6 Q Which one was that?

7 A The most current fiscal plan for HTA.

8 Q What is that fiscal plan --

9 For what year is that fiscal plan, sir?

10 A For the current fiscal year.

11 Q So fiscal year 2022?

12 A Correct.

13 Q Did you discuss any of those documents that you  
14 have informed yourself in preparation for the  
15 deposition with anyone that helped you prepare  
16 for your deposition, other than counsel?

17 A I have to ask you to be a little more specific.

18 Q Okay.

19 A Which documents do you mean?

20 Q All right. Let's go one by one.

21 A Okay.

22 Q No problem.

23 You said that you reviewed historical  
24 budgets certified by the FOMB; correct?

25 A Correct.

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1 Q Okay. Did you discuss those historical budgets  
2 certified by the FOMB with anyone in preparation  
3 for this deposition?

4 A Thank you for clarifying the question.

5 Yes, I did.

6 Q Who?

7 A It was with the EY team; so with the people I  
8 mentioned earlier.

9 Q Was there any counsel present at those  
10 discussions with your colleagues?

11 A There were conversations that occurred with  
12 counsel present and conversations that occurred  
13 with just the EY team.

14 Q Okay. Well, then, referring to the  
15 conversations that occurred just with the EY  
16 team, your EY team, do you recall what, if  
17 anything, you discussed regarding those  
18 historical budgets certified by the FOMB?

19 A If you have a specific question about what we  
20 discussed, then I'm happy to answer that. You  
21 know, I think they were relatively broad  
22 discussions to try to refresh my recollection on  
23 the budget process, the amounts of the budgets,  
24 and matters on the construction of the budgets.

25 Q Okay.

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1 So with respect to the construction of the  
2 budget, do you recall what was discussed with  
3 your colleagues outside of the presence of

4 counsel?

5 A In general, yes, I do.

6 Q Okay. What was that?

7 A We discussed matters such as the budgets are  
8 drawn from the fiscal plans; so how the budgets  
9 tie to the fiscal plan, the amount of the  
10 budget.

11 Q You also mentioned that you reviewed revenue  
12 letters; correct?

13 A Correct.

14 Q All right.

15 So with respect to those revenue letters,  
16 do you recall if you discussed those revenue  
17 letters with anybody -- anyone of your  
18 colleagues outside the presence of counsel?

19 A Yes.

20 Q Okay. So same question then.

21 What did you discuss with respect to those  
22 revenue letters, in general, with those  
23 colleagues outside of the presence of counsel?

24 A To the best of my recollection, we discussed the  
25 components of the revenue letter and the

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1 structure of the revenue letters.

2 Q Okay. Can you tell me what the components of a  
3 revenue letter are?

4 MS. DeCAMP: Objection. I don't know that  
5 that ties to any of the topics, but I'll give  
6 you a little bit of leeway if this is  
7 foundational as to what -- his knowledge for  
8 testifying.

9 MR. GARCIA: I'm sorry, Ms. DeCamp. It's  
10 actually foundation.

11 MS. DeCAMP: Okay.

12 You can answer.

13 MR. GARCIA: Thank you.

14 A Can you repeat the question?

15 BY MR. GARCIA:

16 Q Yes.

17 What are the components of the revenue  
18 letters?

19 A So if you're referring to the revenue letter  
20 that's part of the budgeting process under  
21 PROMESA, which is my understanding of what  
22 you're asking about, the revenue letter is the  
23 first step in the annual budgeting process.

24 It defines the envelope from which the  
25 government can produce a budget that can be

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1 certified by the fiscal plan under Section 202  
2 of PROMESA.

3 Q So I'll ask the question again.

4 What components --

5 What are the components of those letters?

6 A Well, I am not quite clear what you mean by  
7 "components," but the revenue letter is the  
8 first step in the process under PROMESA. It's a  
9 letter that has to be issued by the oversight  
10 board to the government defining the spending  
11 envelope -- well, it defines the revenues from  
12 which the government can produce a budget that  
13 can be certified by the oversight board as  
14 complying with PROMESA.

15 PROMESA does not define, in Section 202,  
16 the revenue letter -- the components of the  
17 revenue letter. I don't quite understand what  
18 you mean, but there's no components that are  
19 defined in the revenue letter other than to say  
20 it is the revenue envelope from which the  
21 government can establish a budget.

22 Q Thank you for the answer, Mr. Chepenik. I asked

23 about the components because earlier, when I  
24 asked you about what with respect to revenue  
25 letters you discussed with your colleagues, you

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1 mentioned two things: first, the components of  
2 the letter; and second, the structure of the  
3 letter.

4 Do you remember that?

5 A Oh --

6 Q Do you remember that testimony you provided?

7 A Okay.

8 Q Okay. So that's why I'm asking about the  
9 components. I think you answered my question --  
10 okay? -- to my satisfaction.

11 I'll ask the same question with respect to  
12 the structure of the revenue letters. What  
13 about the structure did you discuss?

14 MR. GARCIA: Again, Ms. DeCamp, this is for  
15 foundational background purposes.

16 MS. DeCAMP: Thank you.

17 A In terms of the structure --

18 Thank you for clarifying.

19 In terms of the structure, I really just



20 meant the component -- or the contents of what  
21 were included in the revenue letters.

22 BY MR. GARCIA:

23 Q Then you indicated you also reviewed the  
24 objections by the oversight board. I'm not  
25 going to get into that.

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1 Lastly, you mentioned that you reviewed the  
2 expert reports of Mr. Brickley and Ms. Martinez.

3 So with respect to those two reports -- and  
4 we can do it one at a time. Let's start with  
5 Mr. Brickley -- what do you recall?

6 Why did you review that report, the  
7 Brickley report?

8 A Well, I was trying to better understand the  
9 context of the questions that were asked because  
10 they were a little vague in terms of clarity and  
11 what specifically was trying to be sought from  
12 this deposition.

13 So I was trying to better inform myself  
14 about the context and the reasons for the  
15 questions that were being -- that were being  
16 subpoenaed to EY to respond to.

17 Q Okay. With respect to the Brickley report --

18 By the way, did you review the transcript  
19 of his deposition?

20 A I did not, no.

21 Q Did you review any transcript of any deposition  
22 of any expert -- I realize that's a lot; so we  
23 can break it down after you give me the first  
24 answer -- in preparation for your deposition  
25 today?

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1 A I might be able to shorten that time frame  
2 because to the best of my recollection, I have  
3 not reviewed any transcripts in preparation for  
4 my deposition.

5 Q Great. We're understanding each other. Thank  
6 you.

7 All right. So now with respect to Martinez  
8 report, same question as to Mr. Brickley. Why  
9 did you review that report?

10 A For the same -- for the same reason. To try to  
11 better understand the context for the questions  
12 that were subpoenaed to EY to respond to.

13 Q I'm just going to ask the question. You can say

14 "Yes" or "No."

15 Did you meet with anyone from the  
16 Commonwealth government in preparation for your  
17 deposition today?

18 A To the best of my recollection, I did not.

19 Q Have you discussed the topics that are the  
20 subject of the deposition today, to the best of  
21 your recollection, with anyone from the  
22 Commonwealth government prior to preparing for  
23 deposition today?

24 A Again, do you have a time frame in mind?

25 Q Let's say last year.

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1 A I do not recall having had any conversations  
2 with a representative of the government on this  
3 topic -- or on these topics.

4 Q And that's in the last year; correct?

5 A In the last year in preparation for this  
6 deposition.

7 Q Okay.

8 Prior to the last year, not in preparation  
9 for the deposition, do you recall having  
10 discussed any of the topics with anyone from the

11 Commonwealth government for any purpose?

12 MR. MERVIS: Object to the form.

13 BY MR. GARCIA:

14 Q You may answer.

15 A Do you mean in --

16 Do you mean a government official?

17 Q Government official, yes.

18 A I do not recall. To the best of my  
19 recollection, I do not recall having had a  
20 conversation.

21 Q All right. I ask now in particular with respect  
22 to HTA.

23 Do you recall having met with HTA? And I'm  
24 going to broaden the time period for that one.  
25 With respect to the topics in the deposition

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1 today, having discussed any of them with any HTA  
2 official?

3 MR. MERVIS: I object to the form.

4 A And you mean me personally?

5 BY MR. GARCIA:

6 Q Yes, you personally.

7 A To the best of my recollection, I have not had a

8 conversation with an HTA official.

9 Q Within the last five years, have you met with  
10 any HTA official on anything?

11 A The last five years?

12 Q Yes.

13 A So since EY was engaged to support the oversight  
14 board?

15 Q All right. That's fair. Although I think you  
16 were an adviser to the fiscal board before you  
17 worked with EY; so let's break it up into the  
18 two time periods.

19 Let's start with since you've been with EY,  
20 which I believe was 2017, April 2017.

21 A Well, I'm certainly prepared to speak to the  
22 role EY has played in the budgeting process as  
23 it's relevant to this deposition, but I'm not  
24 authorized by the U.S. Treasury or others to  
25 speak to anything that may have occurred before

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1 EY was engaged by the oversight board or,  
2 frankly, before the oversight board existed.

3 Q Fine. That's not my question. My question  
4 is --

5           Let's take it back to 2017. That's four  
6       years and some months.

7           In the last four years and a few months, do  
8       you recall having spoken with any HTA official  
9       on the topics of the deposition today, in  
10      general?

11           MR. MERVIS: Objection to the form.

12           You may answer.

13   A   To the best of my recollection, no, I have not.

14   BY MR. GARCIA:

15   Q   Approximately how much time did you spend in  
16       preparing for your deposition today?

17   A   I probably spent 30 hours, 40 hours, maybe.

18   Q   Okay. Over how many days?

19   A   Over the past several weeks.

20   Q   Now, in addition to the documents you reviewed;  
21       the conversations you had with your colleagues;  
22       the conversations you had with counsel from EY  
23       and Proskauer; do you recall having done  
24       anything else to prepare for the deposition  
25       today?

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1   A   I do.

2 Q Please, what else did you do?

3 A I think there was one additional conversation  
4 that I had with another adviser.

5 Q Okay. Who was that adviser?

6 A Tim Alburgh from ^Conn & McKinsey.

7 Q What was your conversation with Mr. Alburgh  
8 about?

9 A It was confirming something that I believed to  
10 be correct and accurate, but I wanted to  
11 reconfirm.

12 Q What was that, that you wanted to reconfirm?

13 A Where a -- the flow of funds for a certain  
14 revenue streams.

15 Q So flow of funds for certain revenue streams.  
16 Which revenue streams?

17 A For the conditionally allocable revenues in the  
18 fiscal plan.

19 Q Which fiscal plan, if any?

20 A The Commonwealth fiscal plan.

21 Q Any other fiscal plan that you reviewed with  
22 respect to those revenue streams?

23 MR. MERVIS: Sorry. I object to the form.

24 MR. GARCIA: Withdrawn. Withdrawn. Okay.

25 Sorry, Michael. Mr. Mervis.

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1 BY MR. GARCIA:

2 Q You mentioned that you met with Mr. Alburgh to  
3 confirm an issue --

4 (A discussion was held off the record to  
5 correct technical issues.)

6 MR. GARCIA: Withdrawn. Withdrawn. Okay.  
7 Sorry, Michael -- Mr. Mervis.

8 BY MR. GARCIA:

9 Q You mentioned that you met with Mr. Alburgh to  
10 confirm an issue about the flow of funds and  
11 specifically you said the revenue streams, and  
12 particularly the conditionally allocable  
13 revenues. What do you mean by conditionally  
14 allocable revenues?

15 A Those are our revenue streams that are defined  
16 in the fiscal plan.

17 Q I'm sorry. That are what?

18 A There are certain revenue streams that are  
19 defined in the fiscal plan.

20 Q So how are the conditionally allocable revenues  
21 defined in the fiscal plan?

22 A How are they defined?

23 It's just -- I mean, there's a category of



24 revenues that fall under the conditionally  
25 allocable revenues.

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1 Q What are those revenues that follow in that  
2 category?

3 A The rum cover-over -- certain rum cover-over  
4 remittances. Tourism, certain tourism hotel tax  
5 revenues. Certain petroleum tax collections and  
6 certain cigarette tax collections.

7 Q All right.

8 A There may be others, but those are the ones that  
9 I recall.

10 Q All right. And what was it that you had to  
11 confirm with Mr. Alburgh with respect to  
12 specifically the petroleum tax?

13 MS. DeCAMP: Objection to form.

14 BY MR. GARCIA:

15 Q You may answer.

16 A I don't recall us speaking specifically about  
17 the petroleum tax revenue stream in and of  
18 itself. There was nothing unique about that  
19 particular revenue stream. It was more about  
20 the flow of the revenues for all conditionally

21 allocable revenues.

22 Q What about the flow of the revenues you  
23 discussed with Mr. Alburgh to confirm your  
24 belief that the flow was accurate?

25 I'm not trying to put words in your mouth,

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1 okay? I'm just trying to, you know, cut this  
2 short by trying to remember what you testified  
3 and asking you the next question.

4 Again, I'm not trying to confuse you. All  
5 right? If I were to do that, please, excuse me,  
6 and ask me to repeat the question. I have no  
7 problem with repeating the question. This is  
8 really just background, and I want to understand  
9 what you know and what you discussed with  
10 others. Okay.

11 A Certainly.

12 Q I don't want to be unfair.

13 Again, can you just tell me, explain to me  
14 what was it that you had to confirm with  
15 Mr. Alburgh about the flow of funds?

16 A I was trying to confirm the revenue --

17 I was trying to confirm that the revenue

18 sat within the TSA, in the Treasury Single  
19 Account, and were considered as all of the  
20 revenues that flowed through the TSA the same,  
21 the same way.

22 Q When you say TSA, what are you referring to?

23 A The Treasury Single Account.

24 Q Is that the main account for the government of  
25 Puerto Rico?

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1 MS. DeCAMP: Object to form.

2 You can answer.

3 A To the best of my knowledge, the TSA is a series  
4 of bank accounts. It's not one. I don't know  
5 if I would say it's the main bank account, but  
6 it's sort of the consolidation account, if you  
7 will, where most revenues are deposited for the  
8 government.

9 BY MR. GARCIA:

10 Q Just a follow-up question on that.

11 You say that it's consolidation of  
12 accountants where most revenues are deposited.  
13 What kinds of revenues, to the best of your  
14 recollection, are deposited in that TSA account?

15 MS. DeCAMP: Objection.

16 You can answer.

17 A To the best of my recollection, it's most  
18 revenues that are backed by a number of revenue  
19 sources, so corporate tax collections,  
20 individual income tax collections, various  
21 collections from different fees and -- fees  
22 and -- I don't know. Other charges that are  
23 assessed across the government.

24 BY MR. GARCIA:

25 Q Does that include excise taxes, the revenues

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1 coming from excise taxes?

2 MS. DeCAMP: Objection.

3 You can answer.

4 A To the best of my knowledge, the answer is yes.

5 That's what I was trying to confirm.

6 BY MR. GARCIA:

7 Q You told me about the petroleum tax, and I want  
8 to go into the cigarette tax. What specifically  
9 did you discuss about the cigarette tax with  
10 Mr. Alburgh in preparation for this deposition?

11 MS. DeCAMP: Objection. Asked and

12 answered.

13 BY MR. GARCIA:

14 Q Can you answer, please?

15 A Yes. To the best of my recollection, the  
16 conversation was about all conditionally  
17 allocable revenues. It was not about the  
18 cigarette tax specifically.

19 Q What specifically about the cigarette tax did  
20 you discuss with him, if anything?

21 MS. DeCAMP: Objection. Literally just  
22 asked and answered.

23 MR. GARCIA: But he didn't tell me what he  
24 discussed with him with respect to the cigarette  
25 tax in particular.

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1 MS. DeCAMP: Objection. He did.

2 MR. GARCIA: Can the court reporter please  
3 read back the answer.

4 (The requested text was read by the  
5 reporter.)

6 MR. GARCIA: And the answer?

7 (The requested text was read by the  
8 reporter.)

9 BY MR. GARCIA:

10 Q I understand that it was not about the cigarette  
11 tax specifically. I understand that. So do you  
12 recall anything -- strike that.

13 Or withdrawn.

14 Do you recall whether you discussed  
15 anything in particular about the cigarette tax?

16 A In the conversation with --

17 Q Mr. Alburgh?

18 A -- Mr. Alburgh? I do not recall.

19 MR. GARCIA: I think this may be a good  
20 moment to break for five minutes. Is that okay,  
21 Mr. Chepenik?

22 THE WITNESS: It is.

23 MR. GARCIA: Ms. DeCamp, Mr. Mervis, is  
24 that okay with you?

25 MS. DeCAMP: Sure.

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1 MR. MERVIS: Yeah, might be closer to ten,  
2 Arturo, as a practical matter but that's fine.

3 THE VIDEOGRAPHER: I'll take us off the  
4 record at 10:29.

5 (A recess was taken.)

6 THE VIDEOGRAPHER: We are back on the  
7 record at 10:40.

8 BY MR. GARCIA:

9 Q All right. So let's keep going.

10 For purposes of helping refresh your  
11 recollection about the next few questions I'm  
12 going to ask which have to do with your  
13 background, I'm going to put a document on the  
14 screen which is really your LinkedIn profile.

15 Okay?

16 A Okay.

17 MR. GARCIA: Alejandro.

18 (Deposition Exhibit 2 was presented for  
19 identification.)

20 Q Do you recognize this document that's on the  
21 screen now?

22 A I do.

23 Q I don't have any other profile for you; so  
24 that's why I'm using this. Again, it's just to  
25 help you recollect -- refresh your recollection,

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1 if need be. Okay?

2 I ask you, Mr. Chepenik, where are you

3 currently employed?

4 A I'm currently employed at Ernst & Young.

5 Q Since when?

6 A Since April of 2017.

7 Q What is your current position with EY?

8 A I am a principal in our restructuring practice.

9 Q Has that been the same position that you have  
10 occupied since April 2017, or have you had any  
11 other positions?

12 A It's the same position.

13 Q Prior to joining EY, where were you working or  
14 employed?

15 A In the most --

16 Right before EY, I was working at the U.S.  
17 Department of the Treasury.

18 Q And in what position?

19 A I held multiple positions at the Department of  
20 the Treasury.

21 Q Let's start with the first position you had.

22 When did you start working with the U.S.  
23 Department of the Treasury?

24 A I started working there in September of 2011.

25 Q And in what capacity did you start working



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1       there?

2   A   I started working as a senior policy adviser in  
3       the office of capital markets.

4   Q   And what were your responsibilities in that  
5       position?

6   A   I'm really not authorized to speak to the  
7       specifics of my work there.

8   Q   I'm not asking you anything about the specifics.  
9       I'm just asking you about your responsibilities  
10      in that position.

11  A   In that position, I worked on a number of  
12      capital market-related matters.

13  Q   Okay. And how long did you hold that position?

14  A   About two and a half -- two and a half years.  
15      Between two and a half and three years.

16  Q   Did you go onto another position within the  
17      Department of the Treasury?

18  A   I did.

19  Q   Which position was that?

20  A   I became the deputy director for a newly  
21      established group at the U.S. Treasury  
22      Department called "The Office of State and Local  
23      Finance."

24  Q   Sorry. Called what?

25 A It was called "The Office of State and Local

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1 Finance."

2 Q All right. And for how long did you hold that  
3 position?

4 A Approximately three years.

5 Q Until when, more or less?

6 A Until I left the department.

7 Q Okay. When did you leave the department?

8 A I left, as I recall -- the best of my  
9 recollection, I left in March of 2011 -- March  
10 or April of 2011.

11 Q Can you tell me in general --

12 A Wait, I apologize. 2017, not 2011.

13 Q Okay. In general, can you tell me what your  
14 responsibilities were in that position?

15 A In general terms, I was responsible for several  
16 of the policy matters that the office managed  
17 for the department and several -- you know, the  
18 personnel matters, overseeing the office,  
19 et cetera.

20 Q In that position, did you do any work related to  
21 the government of Puerto Rico?

22 A I -- again, I'm not authorized to speak about  
23 what I worked on in connection with my time at  
24 the U.S. Treasury Department.

25 In general terms, if that's what you're

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1 referring to, in general terms, yes, I had  
2 fairly extensive interactions with government  
3 officials in Puerto Rico in that capacity at the  
4 U.S. Treasury Department.

5 Q Again, just in general terms, nothing specific,  
6 but what was your involvement about with the  
7 Commonwealth?

8 A Again, I'm not authorized by the U.S. Treasury  
9 Department to disclose any interactions or  
10 matters that I had with federal officials or  
11 with Puerto Rico government officials, but in  
12 general terms, I would interact on a regular  
13 basis with Puerto Rico officials -- officials  
14 from the Puerto Rico government at the time.

15 Q Okay. I ask you to look at your LinkedIn  
16 profile, under U.S. Department of the Treasury,  
17 as deputy director, specifically there's a  
18 description there about what you were doing in

19           that position -- correct? -- which is a public  
20           discussion?

21    A    Correct.

22    Q    Okay.  What was that?

23    A    What does it say under the --

24    Q    You can read it if you want to.

25    A    Under the Deputy Director role?

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1    Q    Yes.

2    A    That I served as a liaison between the  
3           federal -- between federal officials and  
4           government officials in Puerto Rico and provided  
5           assistance -- technical assistance to Congress  
6           in the drafting of PROMESA.

7    Q    Am I to understand that you actually were  
8           involved in the drafting of PROMESA?

9           MR. MERVIS:  Note my objection to the form.

10   A    I would need you to better clarify that Congress  
11           is the one who drafts laws; so I was not a  
12           member of Congress and did not draft PROMESA.

13   BY MR. GARCIA:

14   Q    I know you're not a member of Congress, but I am  
15           reading from your profile in LinkedIn, which is

16 a public document.

17 You stated in that public document, posting  
18 that you:

19 "Provided extensive --

20 -- and I quote --

21 -- "Extensive technical assistance to

22 Congress in the drafting of the Puerto Rico

23 Oversight, Management and economic Stability

24 Act, PROMESA."

25 That's what it says; correct?

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1 A Correct.

2 Q So again I ask did you provide --

3 Were you involved in the actual drafting,  
4 in any way, shape, or form, of PROMESA?

5 MS. DeCAMP: Objection.

6 You can answer.

7 A Again, members of Congress draft legislation and  
8 bills. I was part of the team that provided  
9 technical assistance to Congress as they drafted  
10 PROMESA.

11 BY MR. GARCIA:

12 Q It also states in your profile --

13 Well, prior to working with the Department  
14 of the Treasury -- U.S. Department of the  
15 Treasury, where were you employed?

16 A I was employed by The Blackstone Group.

17 Q In what capacity?

18 A I was a member of the restructure team.

19 Q And since when?

20 A Since I graduated from graduate school.

21 Q Until when?

22 A You mean the dates?

23 Q Yes.

24 A From the summer of 2010 to the fall of 2011 when  
25 I started for the U.S. Treasury Department.

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1 Q Did you also work at JPMorgan Chase?

2 A I did.

3 Q In what capacity?

4 A I held several roles within JPMorgan.

5 Q Can you tell me what those were.

6 A I was a member of the strategy team, as I  
7 recall -- equity market strategy, and I was a  
8 private banking analyst.

9 Q And what time period did you work at JPMorgan

10 Chase?

11 A That was from the summer of -- well, I interned  
12 for JPMorgan when I was in college, and then I  
13 worked full time for JPMorgan from the summer of  
14 2003 until I left for Harvard Business School in  
15 the summer of 2007.

16 Q Okay.

17 And did you also work as an adviser to the  
18 FOMB at any point in time?

19 A I worked --

20 Under PROMESA, there's a provision to  
21 detail federal officials to help establish the  
22 oversight board.

23 And so your question was did I work as an  
24 adviser? My understanding what you mean is did  
25 I work in any capacity with the oversight board,

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1 then it was in the capacity as a detailee from  
2 the U.S. Treasury to the oversight board, but I  
3 was still an employee of the U.S. Treasury  
4 Department.

5 Q So, in other words, you were still an employee  
6 of the treasury department, but in detail with

7 the FOMB during the formative stages of the

8 FOMB; is that correct?

9 A Generally, that's correct.

10 Q So what were your responsibilities in that time

11 period working with the FOMB as a detailee from

12 the Treasury Department?

13 A Again, I'm not authorized to disclose or share

14 any information during my time at the U.S.

15 Treasury Department.

16 Q But this is all working now for the FOMB as a

17 detailee.

18 Is it your testimony that you cannot tell

19 me what you were doing during that time period?

20 MS. DeCAMP: Objection to form.

21 You canner answer.

22 BY MR. GARCIA:

23 Q You were working as an adviser in detail with

24 the FOMB?

25 A I am here today as a representative of EY

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1 subpoena, you know, the subpoena that was issued

2 to EY in connection with my work as an employee

3 of EY in its role in connection with supporting



4 the oversight board's --

5 Q We'll get to those questions. I'm just trying  
6 it get the background right.

7 So is it your testimony that you cannot  
8 tell me, sitting here today, what you were doing  
9 while you were in detail from the Treasury  
10 Department with the FOMB?

11 MS. DeCAMP: Objection to form.

12 You can answer.

13 A I'm prepared to speak to EY's role from the time  
14 it was engaged by the oversight board to support  
15 the oversight board's efforts in connection with  
16 the matters that were issued in the subpoena.

17 BY MR. GARCIA:

18 Q I understand that. It's the second time you  
19 tell me. I didn't ask the question --

20 I didn't ask that question. I asked a  
21 different question, which I will have the  
22 reporter read back to you, and then you can  
23 provide an answer "Yes" or "No."

24 (The requested text was read by the  
25 reporter.)

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1 MR. MERVIS: Arturo, you're asking him to  
2 answer that question again?

3 MR. GARCIA: I'm asking him to tell me  
4 "Yes" or "No." It's a "Yes" or "No" question,  
5 and that's the question.

6 MR. MERVIS: Okay. I object to the form.

7 A I am not authorized by the U.S. Treasury to  
8 disclose any matters that I worked on while I  
9 was an employee at the U.S. Treasury Department  
10 or a detailee to the oversight board.

11 BY MR. GARCIA:

12 Q I take that as a no. That's fine.

13 Can you briefly tell us your educational  
14 background?

15 A Certainly.

16 I attended graduate school at Harvard  
17 Business School in the Harvard Kennedy School of  
18 Government where I have a master's in business  
19 administration and a master's in public  
20 administration. I'm a CFA, a certified -- or  
21 chartered financial analyst.

22 In my undergraduate studies, I attended the  
23 University of Maryland where I have degrees in  
24 finance, economics, and management science and  
25 statistics.

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1 Q Okay. Let's go back to your position with EY.

2 You mentioned before that you were a

3 principal; correct?

4 A Correct.

5 Q Can you tell us what your responsibilities and

6 duties are in that position?

7 A Could you clarify? In what capacity do you

8 mean?

9 Q The principal. What are your responsibilities?

10 A Generally, a principal in EY is a partner. I'm

11 an equity partner in the firm and responsible

12 for client relationship, client development, and

13 client service.

14 Q Okay. In the client service area, what are your

15 responsibilities?

16 MS. DeCAMP: Objection. Vague.

17 You can answer.

18 A If what you mean is what do I do in terms of

19 client service, I'm not sure if that's what you

20 mean, but is that -- is that what you mean?

21 BY MR. GARCIA:

22 Q Tell me that.

23 A Okay.

24 Q I'll take that.

25 A If what you mean by --

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1 My understanding of what you mean is, you  
2 know, the role that I play in client service,  
3 and that is to oversee the teams of EY  
4 professionals that work on different engagements  
5 for our clients.

6 So it's overseeing the team, managing the  
7 team, the work product that the team produces,  
8 and helping where I can and have expertise with  
9 the development and production of that work  
10 product in support of our clients.

11 Q Okay. So coming, then, to the relationship with  
12 the fiscal board or the oversight board, can you  
13 tell me what the relationship between EY and the  
14 fiscal board is?

15 MS. DeCAMP: Objection. I don't know --

16 Which topic is this? I think we're getting  
17 far afield of foundational questions.

18 MR. GARCIA: It's still background. I want  
19 to know what the relationship between EY and the

20 FOMB is.

21 MS. DeCAMP: Still objection. Vague.

22 MR. GARCIA: Okay.

23 BY MR. GARCIA:

24 Q You can answer.

25 A EY is a consultant -- is a consultant to the

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1 oversight board.

2 Q It is a consultant on what?

3 MS. DeCAMP: Objection. Vague.

4 You can answer.

5 A On a number of matters.

6 BY MR. GARCIA:

7 Q What are those matters?

8 A There are a number of them.

9 Do you mean --

10 Q What are those matters? That's the question.

11 A Are you asking what our scopes of work are? I

12 don't know what --

13 Q I'm asking you what types of matters you work on

14 for the FOMB.

15 A In --

16 Q EY. EY. I'm not talking about you yet. I will

17 get to you.

18 EY.

19 A Okay.

20 Q You said before you were a partner -- an equity  
21 partner; that you were a principal.

22 So you work in client service. I'm asking  
23 you based on that background, what types of  
24 matters EY works on for the FOMB?

25 MS. DeCAMP: Object to form.

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1 But you can answer.

2 A Well, we have two -- two primary contracts with  
3 the oversight board: one for EY's in-court  
4 Title III-related work; and one for our  
5 out-of-court, non-Title III-related matters.

6 BY MR. GARCIA:

7 Q With respect to the Title III in-court matters,  
8 what are those matters, in general?

9 A I do not review our contracts in preparation for  
10 this deposition; so I'm going off of memory.

11 And to the best of my recollection, those  
12 matters are around long-term projections,  
13 pension matters, the plan of adjustment, and

14 creditor mediation support.

15 Q Credit mediation support?

16 A Creditor mediation. Mediation.

17 Q Okay. Creditor mediation. Okay.

18 Anything else that you recall?

19 A Cash -- cash balance analysis.

20 Q Anything else?

21 A Not --

22 Not that I can recall.

23 Q Okay. Since when has EY had a contract with the

24 FOMB?

25 A A Title III contract?

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1 Q Yeah. Let's take that first.

2 A Since 2017.

3 Q Do you recall when in 2017?

4 MS. DeCAMP: Objection.

5 A The documents should be publicly available, I

6 believe. I do not recall off the top of my

7 head, but you can -- you can look it up.

8 BY MR. GARCIA:

9 Q Do you know who the FOMB --

10 Who does EY report to at the FOMB?

11 MS. DeCAMP: Objection.  
12 You can answer.  
13 A In connection with which matter?  
14 BY MR. GARCIA:  
15 Q The Title III matters.  
16 A Which of the Title III matters?  
17 Q Well, you want to do this the hard way; let's do  
18 it the hard way.  
19 The long-term projections.  
20 MR. MERVIS: Whoa, whoa.  
21 MS. DeCAMP: Wait. I'll object to the form  
22 of that question.  
23 Ask a question in a nonargumentative way,  
24 please, Mr. Garcia.  
25

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1 BY MR. GARCIA:  
2 Q Mr. Chepenik, with respect to the long-term  
3 projections, who does the FOMB report to -- I'm  
4 sorry -- who does EY report to at the FOMB?  
5 A I'd like to clarify, too, I'm also not trying to  
6 be difficult, as you've stated.  
7 Quite literally, we have different -- we



8 work with different people on different matters  
9 all the time; so I want to make sure I'm giving  
10 you the accurate answer to the question you're  
11 asking.

12 It's not me trying to be difficult. I just  
13 want to be clear about that. I want to be  
14 truthful and representative of your intent.

15 Q I appreciate that, and same here. I'm trying to  
16 understand what the background is, what the  
17 relationships are, and that's what I'm doing.

18 A Okay. So in general -- let me start there  
19 because I think that --

20 My understanding is, in general, that's  
21 your question, sort of who do we report into.  
22 The answer to that is we report into --  
23 ultimately, for all of our work product,  
24 Natalie Jaresko, as the executive director, and  
25 the oversight board members. They are our

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1 client.

2 Q So that would be the same answer with respect to  
3 pension matters and the plan of adjustment?

4 A Generally, that is the case.

5 Q Okay. And also with respect to cash balance  
6 analysis?

7 A Generally, that is the case, yes.

8 Q So I'm --

9 (Reporter request for clarification.)

10 MR. GARCIA: I just said that I'm not going  
11 to get into creditor mediation support, which is  
12 the other area that he said they provide support  
13 to the FOMB.

14 I'm not going to get into that. I'm sure  
15 there would be some issues with that, so I don't  
16 want to get into that.

17 BY MR. GARCIA:

18 Q Now I'm going to ask you a little bit of the  
19 same questions with respect to your personal  
20 involvement, not EY, but your personal  
21 involvement. Can you tell me in general what  
22 your personal involvement has been, that  
23 engagement with the FOMB?

24 A In general terms, my role, as one of the senior  
25 executives responsible for most of the

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1 workstreams that we're involved in; so if you're

2 asking about the Title III-related matters, I am  
3 generally involved to some extent in most of  
4 them.

5 Q Can you be specific as to any of those tasks  
6 that you were personally involved in on the  
7 Title III?

8 A I am generally involved in most of the matters  
9 that I mentioned to you.

10 Q Okay.

11 So I'm going to now get into some of the  
12 substance of the deposition and the topics that  
13 were in the subpoena. Okay?

14 And I have shown you that list before. If  
15 you want to refer your recollection, we can put  
16 it back on the board. I'm not going to ask yet  
17 anything specific. It's still just general.  
18 Okay?

19 Starting with --

20 Actually starting with Topic Number 6 which  
21 has to do with Acts 30 and 31 Incremental  
22 Revenues.

23 The question for now, Mr. Chepenik, are you  
24 familiar with Acts Number 30 of 2013 and  
25 Act Number 31 of 2013?

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1 A I apologize. I just pulled up the

2 Exhibit Share. I see the subpoena.

3 Q Yeah. It's Exhibit A to the subpoena.

4 A I'm sorry. I had to scroll down to the

5 question.

6 You asked if I'm generally familiar with

7 Acts 30 and 31?

8 Q Yes.

9 Are you familiar with the statutes?

10 A I am generally familiar with the statutes.

11 Q Okay. What is your understanding of those

12 statutes?

13 MS. DeCAMP: Objection.

14 BY MR. GARCIA:

15 Q Do you have an understanding of what those

16 statutes provide?

17 MS. DeCAMP: Objection. Calls for a legal

18 conclusion. That's not one of the topics.

19 MR. GARCIA: I'm not asking him to give me

20 a legal conclusion. I'm asking him -- he's said

21 he's generally familiar with Acts 30 and 31; so

22 I'm asking him --

23 BY MR. GARCIA:

24 Q -- what is your understanding that the statutes  
25 provide in the lay way, as a layperson, not as

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1 an expert, not as an attorney, which I know  
2 you're not.

3 So just as a layperson, what is your  
4 understanding?

5 MS. DeCAMP: I'll object. The scope of his  
6 testimony today on Topic 6 and Acts 30 and 31  
7 are what is specifically mentioned in Exhibit A  
8 as the questions that are presented.

9 Asking for a broad understanding, his  
10 personal understanding of Acts 30 and 31 is not  
11 an appropriate question for this deposition.

12 MR. GARCIA: Are you instructing the  
13 witness not to answer the question based on --

14 MS. DeCAMP: Yes. I'm instructing him not  
15 to answer that broad question.

16 You may ask specific questions about the  
17 topic in the depo notice.

18 MR. GARCIA: Again, just so I understand  
19 and the record is clear, Ms. DeCamp, you're  
20 instructing the witness not to tell me if he

21 knows what his understanding is about Act 30,  
22 31, which is purely a foundational question.  
23 Is that what you're telling me, Ms. DeCamp?  
24 MS. DeCAMP: Could you explain to me how a  
25 lay interpretation of Acts 30 and 31 is a

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1 foundational question to the specific questions  
2 that you're asking?  
3 MR. GARCIA: It was frankly because I want  
4 to know what his knowledge is about the statute,  
5 if any. Then I can ask more specific questions  
6 that are in the topic.  
7 I first need to know what his understanding  
8 is of the statutes.  
9 MS. DeCAMP: So this question is not a  
10 question that Ernst & Young LLP is --  
11 His response to this question will not be  
12 the response by Ernst & Young LLP; it will  
13 simply be his own personal understanding, if he  
14 has one.  
15 MR. GARCIA: That's fine. I will take that  
16 answer, Ms. DeCamp.  
17 MS. DeCAMP: With that carve-out, you may

18 answer to the extent that you have a personal  
19 understanding of Acts 30 and 31.  
20 A My personal understanding, not in my capacity as  
21 a firm for Ernst & Young's understanding of  
22 Acts 30 and 31, is that Act 30 relates to -- and  
23 this is to the best of my understanding too --  
24 Act 30 relates to additional license fees that  
25 were allocated to the highway authority -- or at

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1 least to be allocated to the highway authority.

2 Act 31 pertains to petroleum tax  
3 collections and to additional cigarette tax  
4 collections in their allocation to HTA.

5 BY MR. GARCIA:

6 Q In that context, the context that you just gave  
7 me about your understanding, what do you mean by  
8 "allocation" or "allocated to HTA"?

9 A Just addition -- again, this is my personal  
10 understanding. I'm not a lawyer, nor am I an  
11 expert in either of these laws.

12 Q That's fine. That's fine.

13 A My understanding is it released additional funds  
14 beyond the statutory limits that previously

15           existed.

16   Q    Okay.   Fine.

17           But when you say "allocated," what do you  
18           mean by that?

19   A    That historically had been used by the  
20           authority.

21   Q    In the work that you have done --

22           In the work that you have done for the  
23           FOMB, did you -- withdrawn.

24           In the work that you have done for the  
25           FOMB, did you have occasion to review into what

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1           accounts those funds coming from Acts 30 and 31  
2           were deposited?

3   A    In my personal -- in my personal?

4   Q    In your involvement for the FOMB, the work  
5           you've done for the FOMB, do you have an  
6           understanding as to into what account those  
7           funds were deposited, Acts 30 and 31?

8           MR. MERVIS: Object to the form.

9   A    To the best of my recollection, I do not -- I  
10          personally do not know which accounts those --  
11          like account number, if that's what you're



12 asking for, that those funds are deposited into.

13 BY MR. GARCIA:

14 Q Do you know whether those funds -- those  
15 revenues were deposited into the TSA account  
16 that you mentioned before?

17 A Ultimately, my understanding is that's where  
18 those revenues sit; that they make their way  
19 into the TSA, just as many other revenues are  
20 deposited into the TSA.

21 Q Okay. And from the TSA, do you have a general  
22 understanding as to where those funds were  
23 transferred?

24 MR. MERVIS: I object to the form of the  
25 question.

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1 BY MR. GARCIA:

2 Q You may answer.

3 A Over what time period?

4 Q During the time that you have been working for  
5 the FOMB, in 2017, engaged as a consultant.

6 A So EY was not engaged to perform a, you know,  
7 forensic-tracing analysis of those funds, and to  
8 the best of my knowledge, most of that money is

9 still sitting in the TSA.

10 Q Do you remember earlier that we discussed your  
11 conversation with Mr. Alburgh on the flow of  
12 funds; correct?

13 A Correct.

14 Q As part of that conversation that you had with  
15 Mr. Alburgh, did you discuss the HTA funds that  
16 were in the TSA -- that were in the TSA account?

17 Did you discuss that?

18 MS. DeCAMP: Objection.

19 You can answer.

20 A To the best of my recollection, we discussed all  
21 the conditionally allocable revenues, not the  
22 HTA -- not the HTA component of those  
23 conditionally allocable revenues.

24 BY MR. GARCIA:

25 Q As you just said, HTA was a component of those

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1 conditionally allocated revenues; correct?

2 MR. MERVIS: I object to the form.

3 A By "HTA," my understanding is you mean  
4 certain -- like the petroleum tax revenues, or  
5 which revenues do you mean?

6 BY MR. GARCIA:

7 Q Well, you tell me.

8 What part of the allocable -- what was your  
9 term -- conditionally allocable revenues were  
10 HTA revenues?

11 MS. DeCAMP: Objection.

12 BY MR. GARCIA:

13 Q You can answer.

14 A To the best of my understanding, I believe it's  
15 petroleum tax revenues and certain cigarette tax  
16 revenues and certain license fee revenues.

17 Q With respect to the conversation you had with  
18 Mr. Alburgh, did you have occasion to discuss  
19 with him where those funds would be transferred  
20 from the TSA account?

21 MR. MERVIS: Object to the form.

22 BY MR. GARCIA:

23 Q You may answer.

24 A To the best of my recollection, we did not  
25 discuss that.

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1 Q Okay. By the way, since I'm on Number 6 now.

2 I'll ask you a couple of questions with respect

3 to Number 6.

4 Did you ever speak with anybody at the FOMB  
5 with respect to Topic Number 6 -- specifically  
6 Topic Number 6?

7 I know I asked questions in general before.  
8 I want to know if, with respect to Topic  
9 Number 6, which is one of the topics that you've  
10 been designated to speak to, do you recall  
11 whether you met with anybody from the FOMB to  
12 discuss that topic?

13 A My understanding, you mean in connection with  
14 preparing for the declaration --

15 Q Yes.

16 A -- I'm sorry -- for the deposition.

17 And if that's the case, to the best of my  
18 recollection, no, I have not spoken with any  
19 representative of the FOMB.

20 Q So you have not spoken with any representative  
21 of the FOMB with respect to Topic Number 6;  
22 correct?

23 MR. MERVIS: I object to the form of the  
24 question.

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1 BY MR. GARCIA:

2 Q You can answer.

3 A To the best of my recollection, that is correct.

4 I have not spoken with a representative of the

5 FOMB in connection with Question Number 6.

6 Q Okay. Do you know whether anyone at the FOMB

7 would have knowledge relative to the topic on

8 Number 6?

9 MS. DeCAMP: Objection.

10 BY MR. GARCIA:

11 Q You can answer.

12 A I'm here as a representative of EY pursuant to

13 the subpoena that was issued to EY in connection

14 with EY's work on these topics.

15 I can't speculate. I wouldn't know what

16 people at the FOMB know or don't know.

17 Q So my question was whether --

18 So you don't know whether anyone at the

19 FOMB would have knowledge of this topic?

20 MR. MERVIS: Object to the form.

21 A To the best of my knowledge, I'm unaware of what

22 they may or may not know.

23 BY MR. GARCIA:

24 Q You're not aware of what?

25 A I'm not -- to the best of my knowledge, I'm not

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1 aware of what, you know, a representative of the  
2 oversight board may or may not know.

3 Q Okay.

4 A I couldn't tell you whether they --

5 Q All right.

6 Did you do anything to try to determine  
7 whether anyone at the FOMB would have knowledge  
8 about that specific topic in Number 6?

9 A I'm here as a representative of EY pursuant to a  
10 subpoena that was issued to EY in connection  
11 with its work that it's done on the budgetary  
12 development and certification process. So the  
13 answer is no, I'm not aware.

14 Q Okay.

15 MR. GARCIA: Alejandro, can you please post  
16 Tab Number 30 on the board.

17 (A discussion was held off the record to  
18 correct technical issues.)

19 MR. GARCIA: Having a couple of technical  
20 issues. Sorry.

21 Sorry about this.

22 MR. KOFF: Arturo, it's Doug Koff. And I  
23 need a break in like five minutes because I'm  
24 attending too.

25 So if we can take one. I apologize to

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1 everyone, but I just need like a three-minute  
2 break.

3 MR. GARCIA: Can we go off the record for  
4 five minutes while we also fix the technical  
5 issue here?

6 Do you mind?

7 THE VIDEOGRAPHER: I'll take us off the  
8 record at 11:20.

9 (A recess was taken.)

10 THE VIDEOGRAPHER: We're back on the record  
11 at 11:31.

12 BY MR. GARCIA:

13 Q Sorry about those technical issues. Took a  
14 little longer than I expected, but we'll move  
15 forward.

16 Okay?

17 (Deposition Exhibit 3 was presented for  
18 identification.)

19 Q There's a document on the screen, but before I  
20 go to the document, I'll ask you one other  
21 question with respect to -- in general with  
22 respect to Topic Number 6.

23 I don't want you to enter into the subject  
24 matter of any discussions, if there were any  
25 discussions. Okay? I don't --

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1 I'm just asking you whether anyone from  
2 Proskauer, the law firm representing the FOMB,  
3 provided you any information to help you prepare  
4 to testify on this particular topic today?

5 MR. MERVIS: Arturo, sorry, which topic are  
6 you referring to?

7 MR. GARCIA: Number 6.

8 MR. MERVIS: Okay.

9 A To the best of my recollection, no.

10 BY MR. GARCIA:

11 Q So did you, in preparing for the deposition,  
12 again, not getting into the substance, if there  
13 was any, but did you meet with anybody from  
14 Proskauer to prepare for the deposition on this  
15 particular Topic Number 6?



16 A I recall having a handful of meetings with  
17 representatives from Proskauer on all of the  
18 topics in preparation for the deposition.

19 I cannot recall a specific meeting just to  
20 talk about Topic Number 6.

21 Q Okay. And I believe you indicated before that  
22 those meetings would have been with --

23 Well, I don't want to have an objection of  
24 asked and answered. I'm not recalling who you  
25 mentioned.

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1 MR. GARCIA: Do you mind, Antoinette, if I  
2 ask that question again?

3 MS. DeCAMP: Sure. Go ahead.

4 BY MR. GARCIA:

5 Q Can you please tell me who you met with from the  
6 FOMB with respect to Topic Number 6, to the best  
7 of your recollection.

8 MS. DeCAMP: Yes. It's a different  
9 objection. It's not the --

10 Yeah.

11 MR. GARCIA: I'm sorry, you guys were  
12 speaking over each other; so I didn't hear

13 either one.

14 MR. MERVIS: Yeah. Arturo, you asked who  
15 he met with from the FOMB. I don't know if  
16 that's what you meant to ask.

17 MR. GARCIA: I'm sorry. From Proskauer.

18 BY MR. GARCIA:

19 Q From Proskauer, Mr. Chepenik.

20 A So I think I just answered the prior question in  
21 terms of the context of the discussions that I  
22 had with representatives from Proskauer, and  
23 they were on all topics, not just the meeting on  
24 Topic Number 6.

25 If that's what you mean, which I interpret

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1 that is what you mean, the attorneys at  
2 Proskauer that I met with in preparation for my  
3 deposition generally were Margaret Dale, Michael  
4 Mervis, Michael Firestein, Ehud Barak, and Julia  
5 Alonzo.

6 Q Yes. Thank you for that. Those were the ones I  
7 remembered, but I just wanted to make sure.

8 A Okay.

9 Q So can you see a document on the screen?

10 A I can.

11 Q Okay. Have you seen this document before?

12 A I have.

13 Q You have.

14 Do you recall when you saw it the first  
15 time?

16 A I do not recall the first time I saw it. I do  
17 recall having seen it in preparation for the  
18 deposition today.

19 Q Okay. That was going to be my next question; so  
20 thank you.

21 So in your --

22 Can you give me an explanation of what the  
23 document is. I don't want to put words in your  
24 mouth.

25 MR. MERVIS: I object to the form.

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1 A This is what is commonly referred to as

2 "Act 30."

3 BY MR. GARCIA:

4 Q Okay.

5 MR. GARCIA: Can you please scroll down to  
6 the part where it, you know, talks about the

7 revenues allocated.

8 I think it's highlighted. Maybe we didn't

9 use the --

10 Can you please highlight the language,

11 Mr. Cepeda. Okay.

12 BY MR. GARCIA:

13 Q Do you see the highlighted language in the

14 document now? It's highlighted in light blue?

15 A Yes.

16 Q It states, and I quote:

17 "Except as otherwise provided in the Act,

18 the amount of the fees collected in accordance

19 with Sections 23.01 and 23.02 of this Act shall

20 be covered in its entirety into a special

21 deposit in the name and for the benefit of the

22 Highways and Transportation Authority."

23 Do you see that language?

24 A I see the language, yes.

25 Q Do you have your own understanding of that

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1 language in the statute?

2 MS. DeCAMP: Objection. Again, you're

3 asking about his personal understanding?

4 MR. GARCIA: Yes, his personal. I said  
5 "your own understanding."

6 BY MR. GARCIA:

7 Q Do you have your own understanding about the  
8 language that is highlighted, Mr. Chepenik?

9 THE WITNESS: Antoinette, should I answer?

10 MS. DeCAMP: You can answer if you have  
11 your own personal understanding about what this  
12 Act -- what this language says.

13 A I don't have -- I don't have my own personal  
14 understanding about what this language has or  
15 means. I think we're operating, you know, in  
16 the PROMESA world. And I can certainly speak to  
17 the budgeting process generally, but I do not  
18 have a specific personal point of view on this  
19 language.

20 BY MR. GARCIA:

21 Q Do you recall, when was the first time that you  
22 saw this language in the statute?

23 A As I recall, the first time I focused on this  
24 provision is right now.

25 Q Is when?

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1 A Right now, when you just showed it to me.

2 Q All right. So you had not seen this provision  
3 of the statute before?

4 MR. MERVIS: Object to the form.

5 A I have seen the statute in preparation for the  
6 deposition, but I don't personally recall this  
7 particular provision, reviewing that as part of  
8 my deposition preparation.

9 BY MR. GARCIA:

10 Q Okay. And prior to deposition preparation, had  
11 you seen the statute?

12 A I have seen the statute prior to my -- yes.

13 Q In what connection did you see the statute?

14 A It's just commonly referred --

15 It's a commonly referred statute, and I  
16 just recall having seen it in the past.

17 Q So again, in what connection do you recall  
18 having seen it in the past?

19 A I do not recall.

20 Q So you don't remember what you saw the statute  
21 in connection with in the past? That's your  
22 testimony?

23 A I do not recall.

24 Q To the best of your recollection, did you review  
25 the statute for anything related to your work

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1 for the oversight board?

2 A To the best of my recollection, I do not.

3 Q You did not.

4 That's your answer?

5 A To the best of my recollection, I do not recall.

6 Q Okay. Is the statute in any way, shape, or form  
7 related to your work for the FOMB? your personal  
8 work for the FOMB?

9 MR. MERVIS: I object to the form.

10 MS. DeCAMP: Objection.

11 BY MR. GARCIA:

12 Q You can answer.

13 A To the best of my recollection, no.

14 MR. GARCIA: Can you put Act Number 31 on  
15 the screen.

16 Slow process. I apologize.

17 Okay. It's coming up.

18 (Deposition Exhibit 4 was presented into  
19 evidence.)

20 BY MR. GARCIA:

21 Q Do you see a document on your screen,

22 Mr. Chepenik?

23 A I do, yes.

24 Q Have you seen this document before?

25 A I have, yes.

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1 Q Okay. What is this document, to the best your  
2 understanding?

3 A To the best of my understanding, this appears to  
4 be Act 31.

5 Q And can you tell me what is your understanding  
6 about, in general, about Act 31?

7 MS. DeCAMP: Objection. Asking for his  
8 personal understanding again?

9 MR. GARCIA: Yes.

10 MS. DeCAMP: Okay.

11 BY MR. GARCIA:

12 Q Yes. Yes, please answer.

13 A So my personal understanding of this is it  
14 relates to additional petroleum tax revenue  
15 collection remittances and cigarette tax  
16 collection remittances.

17 MR. GARCIA: Can you please scroll down to  
18 the same section that you were on before in  
19 Act 31.



20 I think it's there. Yes, that's the one.

21 Can you please highlight 1, and then (a).

22 BY MR. GARCIA:

23 Q Okay. Do you see the language highlighted in

24 light blue on the document, Mr. Chepenik?

25 A I do, yes.

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1 Q Okay. And I quote, it says:

2 "The sum of the tax collected on gasoline

3 and four cents of the gas, oil, or diesel oil

4 tax established by Section 3020.06 of the

5 subtitle, and the total amount per fiscal year

6 of the excise tax collected for crude oil,

7 partially finished, and finished oil by-products

8 and any other hydrocarbon mixtures established

9 in Section 3020.07 of this subtitle, shall be

10 covered into a special deposit in favor of the

11 Highways and Transportation Authority for its

12 corporate purposes."

13 Do you see that language?

14 A I do, yes.

15 Q Have you seen that language before?

16 A I do not recall having seen that language.

17 Q So did you see it in preparation -- do you  
18 recall having seen it in preparation for your  
19 deposition today?

20 A I do not recall having focused on that clause in  
21 preparation for my deposition today.

22 Q Again, I'm going to ask you your own personal  
23 understanding of what this particular provision  
24 of Act 31 provides.

25 MS. DeCAMP: I'll object. It's outside the

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1 scope of the depo.

2 But you can answer.

3 MR. MERVIS: I object to form.

4 BY MR. GARCIA:

5 Q You can answer.

6 A I do not have a personal point of view on what  
7 this provision means.

8 Q Okay.

9 Have you seen the language, and I quote:

10 "Shall be covered into a special deposit in  
11 favor of the Highways and Transportation  
12 Authority for its corporate purposes"?

13 Have you seen it before?

14 A It has not been something that I have focused  
15 on.

16 Q In connection with the discussion you had with  
17 Mr. Alburgh regarding the testimony you gave  
18 before -- I don't want to repeat it -- Did you  
19 have occasion to discuss these particular  
20 sections of Act 30 and 31?

21 MR. MERVIS: Note my objection to the form.

22 BY MR. GARCIA:

23 Q You may answer.

24 A No. To the best of my recollection, we did not  
25 discuss.

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1 Q In general, have you seen the language, and I  
2 quote:

3 "Shall be covered into a special  
4 deposit" --

5 -- before in this type of statute?

6 MS. DeCAMP: Objection.

7 But you can answer.

8 A You mean as a provision of the Act 31 or --

9 I'm not quite sure what --

10 BY MR. GARCIA:

11 Q In general terms, I'm asking whether you've seen  
12 this type of language:

13 "Shall be covered into a special  
14 deposit" --

15 -- before in these types of statutes?

16 MS. DeCAMP: Objection.

17 BY MR. GARCIA:

18 Q You may answer.

19 A No, not that I can recall.

20 Q All right. So I'll try -- in fact, you can't  
21 recall.

22 Do you recall what this particular language  
23 signifies, and I quote:

24 "Shall be covered into a special deposit."

25 Do you know?

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1 MS. DeCAMP: Objection.

2 BY MR. GARCIA:

3 Q You may answer.

4 A I don't have a personal perspective on what that  
5 particular language would mean for this law. In  
6 a PROMESA -- under a PROMESA framework, not  
7 under this particular law.

8 Q That's fine, but I'm not asking you about  
9 PROMESA framework. I'm asking you about this  
10 particular language in the statute outside of  
11 any other context.

12 Am I to understand that you have no  
13 particular understanding about those words in  
14 the statute?

15 Is that your testimony?

16 MR. MERVIS: Object to the form.

17 BY MR. GARCIA:

18 Q You may answer.

19 A I do not have a particular point of view on what  
20 that provision implies.

21 Q Okay. Let's go to (a). You see the highlighted  
22 portion of the statute that starts with the  
23 letter (a)? It's the second highlighted  
24 paragraph.

25 A Yes, I see that.

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1 Q And I quote it, it says:

2 "The secretary shall transfer every month,  
3 or as agreed on with the Highways and  
4 Transportation Authority, the amounts covered

5 into said special deposit, deducting from these  
6 the amounts reimbursed according to the  
7 provisions of Section 3030.19 and 3030.20 of  
8 this subtitle."

9 Do you see that language?

10 A I do, yes.

11 Q Have you seen this language before?

12 A Not that I recall.

13 Q You didn't see it in preparation for this  
14 deposition?

15 A I did not focus on that language for this  
16 deposition, no.

17 Q Yeah. But my question was whether you saw it in  
18 preparation for the deposition?

19 MS. DeCAMP: Objection.

20 You can answer.

21 A To the best of my recollection, no.

22 BY MR. GARCIA:

23 Q Did you discuss these two provisions that are  
24 highlighted with anybody in preparation for your  
25 deposition?

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1 A To the best of my recollection, no.

2 Q Does that include anybody from the FOMB?

3 A It does.

4 Q Does that include anybody from Proskauer?

5 A It does.

6 Q Okay.

7 Do you know where the taxes covered by

8 Acts 30 and 31 are being deposited,

9 Mr. Chepenik?

10 MR. MERVIS: I object to the form.

11 BY MR. GARCIA:

12 Q You may answer.

13 A To the best of my understanding, they are

14 deposited ultimately into The Treasury Single

15 Account.

16 Q Do you know if after they are deposited in the

17 TSA account that we were discussing before, they

18 are transferred somewhere else?

19 MR. MERVIS: Objection.

20 BY MR. GARCIA:

21 Q You may answer.

22 A In which time period do you mean? Currently?

23 Q In the last four years, since you've been

24 working with EY?

25 A There's only one instance in which I'm aware of

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1 a specific allocation of these revenues.

2 Q What was that one instance that you're aware of?

3 A In 2019, there was a special resolution passed  
4 pertaining to petroleum tax revenues.

5 Q Okay. What was that special resolution?

6 A It was part of the certified budgeting process,  
7 and, yeah, I mean that -- it allocated petroleum  
8 tax revenues.

9 Q Do you recall what the resolution provided?

10 A I recall it provided for \$299 million of  
11 petroleum tax revenues to be allocated for, I  
12 recall, to the best of my recollection, for  
13 police and teacher salaries.

14 Q Allocated to whom?

15 Sorry. I didn't hear.

16 A I don't know -- if you have the resolution, it  
17 would help refresh my recollection. But I  
18 recall -- to the best of my recollection, I  
19 believe it was for police and teacher salaries.

20 Q Other than that special resolution related to  
21 those \$299 million of petroleum taxes, do you  
22 know where the revenues in Acts 30 and 31 would  
23 be transferred outside of the TSA account to?



24 MS. DeCAMP: Object.

25 But you can answer.

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1 A To the best of my recollection, I'm not aware of  
2 other transfers of those revenues.

3 BY MR. GARCIA:

4 Q But are you aware that they are transferred?

5 MS. DeCAMP: Object to form.

6 A No.

7 My understanding, to the best of my  
8 recollection, is that those monies are generally  
9 deposited into TSA. Cash is cash. It's  
10 commingled within the Treasury Single Account.

11 BY MR. GARCIA:

12 Q So is it your understanding that, except for the  
13 \$299 million that were the subject of the  
14 special resolution in 2019, the funds are  
15 deposited in the TSA account and remain there?

16 A Since EY was retained, I believe that is the  
17 case.

18 Q All right.

19 MR. GARCIA: I believe this might be an  
20 appropriate moment to break for lunch.

21 Mr. Chepenik, how long do you need for  
22 lunch?

23 THE WITNESS: What time -- how long is  
24 customary?

25 MR. GARCIA: It's as little as half an hour

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1 to as long as one hour. What is --

2 THE VIDEOGRAPHER: We'll go off the record.

3 MR. GARCIA: We can go off the record.

4 THE VIDEOGRAPHER: Let's go off the record  
5 at 11:53.

6 (A recess was taken.)

7 THE VIDEOGRAPHER: We are back on the  
8 record at 1:01 p.m.

9 BY MR. GARCIA:

10 Q Good afternoon, everyone. Especially to  
11 Mr. Chepenik. Hope you all had a healthy and  
12 nice lunch. I hope that the weather, wherever  
13 it is you are, is better than the one we're  
14 having in San Juan.

15 Anyway, I'm going to ask Mr. Cepeda to  
16 bring another exhibit to the screen. This one  
17 could take a little longer because it's a pretty

18 big document. But I'm not going to go into much  
19 of it at all, just actually maybe two  
20 paragraphs, if not just one.

21 (Deposition Exhibit 5 was presented for  
22 identification.)

23 Q Mr. Chepenik, do you see a document on your  
24 screen?

25 A I do.

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1 Q It's been identified as Exhibit 5 for the depo.

2 Have you seen this document before?

3 A I have, yes.

4 Q Can you tell me what it is?

5 A This is --

6 I believe this is the most current  
7 certified fiscal plan for the central  
8 government.

9 Q In other words, for the Commonwealth?

10 A Yes, the Commonwealth government.

11 Q Are you familiar with the government?

12 A I am, yes.

13 Q Have you had occasion prior to today to review  
14 this document?

15 A I did, yes.

16 Q In what setting did you review it before?

17 A In conjunction with a number of our work -- the  
18 EY workstreams.

19 Q Any other context besides the workstreams?

20 A Not particularly, no.

21 Q Did you review the document in preparation for  
22 the deposition today?

23 A Oh, I did not realize that was the question.

24 Yes, I did.

25 Q It actually was not the question, but I was

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1 first exploring other context before coming to  
2 this one, but you've answered. Thank you.

3 Did EY have any involvement in the  
4 preparation of the fiscal plan that's on the  
5 screen?

6 A EY had input on a few specific topics for the  
7 fiscal plan but was in the primary consultant  
8 hired by the oversight board to prepare and  
9 review the fiscal plan.

10 Q Okay. By the way, did you have any involvement  
11 with EY in connection with the fiscal plan?

12 A I did, yes.

13 Q What specific topics was EY working on with  
14 respect to the fiscal plan?

15 A To the best of my recollection, the main  
16 contributions were around the Department of  
17 Education section, and in those measures, around  
18 the section on the office of the CFO, the CFO  
19 proposal, and the Pension section in the fiscal  
20 plan.

21 Q So that was your answer with respect to EY.

22 Would that be the same answer with respect  
23 to your own involvement in the preparation of  
24 this fiscal plan?

25 A To the best of my recollection, I was personally

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1 most involved in the OCFO section and the  
2 Pension section.

3 Q Was there any involvement by EY or by you in  
4 connection with the HTA part of the fiscal plan?

5 A To the best of my recollection, no.

6 Q In preparation for the deposition today, did you  
7 review any HTA sections in the fiscal plan prior  
8 to today?

9 A I did not, no.

10 Q Okay. I'm going to ask Mr. Cepeda to scroll  
11 down to page 45 of the document.

12 Before we look at the language, do you know  
13 how the fiscal plan treats the revenues  
14 generated by Acts 30, 31?

15 MS. DeCAMP: Objection.

16 You can answer.

17 BY MR. GARCIA:

18 Q Please answer.

19 A To the best of my knowledge, they are treated  
20 the same way that all other revenues --  
21 virtually all other revenues of the government  
22 are treated.

23 Q Okay. Can you tell me what that way is.

24 MS. DeCAMP: Objection.

25

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1 BY MR. GARCIA:

2 Q Please answer.

3 A My understanding is revenues are all  
4 consolidated into one aggregate revenue stream  
5 that's forecasted out, and then expenses are

6 forecasted out against those revenues.

7 Q When you say that "all the revenues are  
8 consolidated into one aggregate revenue stream,"  
9 what do you mean by that?

10 A That there's no particularly unique treatment  
11 for different revenue streams. They are all  
12 treated the same -- in the same fashion where  
13 the revenues are forecasted out creating a  
14 revenue baseline, if you will.

15 Measures are incorporated. Those can be  
16 fiscal or structural reform measures that have  
17 an impact on various revenue streams. And then  
18 those revenue streams are all totaled to create  
19 an aggregate revenue stream.

20 Q After the aggregate revenue stream is created --  
21 strike that. Withdrawn.

22 For what purpose in the fiscal plan is the  
23 aggregate revenue stream created?

24 MS. DeCAMP: Objection.

25

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1 BY MR. GARCIA:

2 Q You can answer.

3 A My understanding is the revenue stream is  
4 created to forecast the total amount of revenues  
5 available for expenses to be allocated against  
6 or surpluses to be generated.

7 Q Okay. All right.

8 So now I'm going to ask you to turn to  
9 Section 5.1, Baseline Revenue Forecast.

10 What's a baseline revenue forecast? Do you  
11 know?

12 MS. DeCAMP: Objection. Objection.

13 You can answer.

14 A So EY does not set the baseline revenue  
15 forecast. So I cannot tell you with absolute  
16 certainty, but my understanding is the baseline  
17 revenue forecast is the revenue forecast before  
18 measures are applied. So before either fiscal  
19 measures or structural reformers.

20 MR. GARCIA: Can you please highlight,  
21 starting with the sentence that begins:

22 "The inclusion of these revenues" --

23 -- until the end.

24 Okay.

25



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1 BY MR. GARCIA:

2 Q Do you see the highlighted portion of that  
3 section on your screen, Mr. Chepenik?

4 A Yes, I do.

5 Q Okay. I'm just going to read a part of that for  
6 the record, and I quote:

7 "The inclusion of these revenues in the  
8 2021 fiscal plan is based on the oversight  
9 board's legal conclusions that: (i), such monies  
10 are property of the Commonwealth; (ii), each  
11 pre-PROMESA statute appropriating or  
12 transferring such monies to instrumentalities of  
13 the Commonwealth is preempted by PROMESA; (iii),  
14 such statutes were enacted by prior legislatures  
15 that cannot bind the current legislature; and  
16 (iv), in any event, absent PROMESA, under the  
17 Puerto Rico constitution, such monies would not  
18 be transferred to the instrumentalities while  
19 general obligation debt is not being paid  
20 according to its terms."

21 Do you see that highlighting?

22 A I do, yes.

23 Q Have you seen this language before?

24 A To the best of my recollection, I do not recall

25 having focused on that language.

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1 Q Okay. I'm not going to ask you any question to  
2 provide me any kind of a legal conclusion. I  
3 know you're not a lawyer. Okay?

4 I'm not going to ask you either to  
5 interpret, in any legal way, the provision that  
6 I highlighted. Okay? I'm not doing that.

7 I'm just asking you what is your  
8 understanding of this language in the  
9 Commonwealth fiscal plan for 2021?

10 MS. DeCAMP: To clarify, you're asking for  
11 his personal view as opposed to any EY position;  
12 correct?

13 MR. GARCIA: Yes.

14 BY MR. GARCIA:

15 Q I'm asking for your personal view.

16 MS. DeCAMP: You can answer to the extent  
17 you have a view.

18 MR. MERVIS: I object to the form.

19 BY MR. GARCIA:

20 Q Okay. You can answer.

21 A I do not have a particular view about what this

22 means.

23 Q You have --

24 You don't have a particular view. Do you

25 have any view?

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1 MR. MERVIS: Same objection.

2 A I do not.

3 BY MR. GARCIA:

4 Q Okay. Now, you've indicated that you've worked  
5 with the FOMB with respect to the preparation of  
6 fiscal plans, and you indicated what areas of  
7 the fiscal plan you were involved with. I know  
8 that. Okay?

9 But do you have experience outside of this  
10 engagement in the preparation of fiscal plans in  
11 general? And, again, either you personally or  
12 you as a member -- as a principal of EY.

13 MR. MERVIS: I'm sorry. Can I ask the  
14 reporter to read that back.

15 Thank you.

16 (The requested text was read by the  
17 reporter.)

18 MR. MERVIS: I object to the form.

19 BY MR. GARCIA:

20 Q Please answer.

21 A In terms of fiscal plans, can you better  
22 elaborate what you mean by that?

23 Q Well, do you know what a fiscal plan is?

24 A I know what this fiscal plan is but not  
25 necessarily what you mean more generally.

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DRAFT -- NOT PROOFREAD

1 Q Have you worked in the preparation of fiscal  
2 plans outside of this engagement at any time?

3 MR. MERVIS: Objection to the form.

4 BY MR. GARCIA:

5 Q You may answer.

6 A My understanding is what you imply by fiscal  
7 plan is a multiyear -- a multiyear sort of plan  
8 for a public sector entity that may or may not  
9 be in connection with the bankruptcy process.

10 If that is what you mean, the answer is  
11 yes.

12 Q Okay.

13 Well, based on that answer that you have  
14 just given, I ask you whether you've seen this  
15 type of language in other fiscal plans, either

16 in the Commonwealth setting or other settings  
17 before?

18 MS. DeCAMP: Objection.

19 BY MR. GARCIA:

20 Q You can answer.

21 A I would say, you know, based on my experience,  
22 that each sort of multiyear plan that's  
23 developed by a public sector entity, be it a  
24 state or local government, is unique to that  
25 state or local government's situation. So it's

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1 not always in connection with the same types of  
2 processes.

3 Q Based on your experience, you cannot tell me  
4 whether you have any understanding of what this  
5 language means for purposes of this particular  
6 fiscal plan of the Commonwealth?

7 MS. DeCAMP: Objection.

8 You can answer.

9 A I do not have a point of view on this language.

10 BY MR. GARCIA:

11 Q Okay. I'm not asking your point of view. I'm  
12 asking you about understanding -- any

13 understanding that you may have with respect to  
14 this language on the fiscal plan?

15 MS. DeCAMP: Objection.

16 You can answer.

17 A I don't have a particular understanding of this  
18 language, no.

19 BY MR. GARCIA:

20 Q So you have --

21 You don't have a particular understanding,  
22 but do you have any understanding?

23 A I don't have a particular understanding of this  
24 language.

25 Q So I understand that you have no understanding

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1 whatsoever about this language in the fiscal  
2 plan?

3 MS. DeCAMP: Objection.

4 You can answer.

5 A I do not have a particular understanding of the  
6 language.

7 MR. GARCIA: Let's go to a different  
8 exhibit. This one is a little less heavy, but  
9 it's still somewhat heavy; so it's going to

10           probably take some time coming up on the screen.

11                   (Deposition Exhibit 6 was presented for  
12           identification.)

13   BY MR. GARCIA:

14   Q   Mr. Chepenik, do you see a document on the  
15           screen now?

16   A   I do, yes.

17   Q   It's been marked as Exhibit 6 for the  
18           deposition.

19           Have you seen the document before?

20   A   I have, yes.

21   Q   In what setting did you see the document before?

22   A   I just generally reviewed various fiscal plans  
23           once they were prepared.

24   Q   Okay. For what purpose do you "generally review  
25           various fiscal plans"?

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1   A   Just to try to be informed about -- about  
2           different fiscal plans.

3   Q   And for what purpose do you want to be informed  
4           about the fiscal plans, sir?

5   A   I just want to be the best-prepared adviser that  
6           I can be for our client.

7 Q Okay.

8 Did the FOMB have any involvement in the  
9 preparation of the HTA fiscal plan?

10 MR. MERVIS: Did you say "FOMB," Arturo?

11 MR. GARCIA: Yeah.

12 MR. MERVIS: Okay.

13 BY MR. GARCIA:

14 Q Do you know if the FOMB had any involvement?

15 A I personally was not involved, nor was EY  
16 involved in the preparation of the HTA fiscal  
17 plan; so I cannot tell you with certainty.

18 However, the document was certified by the  
19 oversight board ultimately; so I would -- based  
20 on my experience, I would imagine that there was  
21 some review of the fiscal plan.

22 Q Yeah. Actually, the cover of the document  
23 actually states, and I quote:

24 "As certified by the for the Financial  
25 Oversight and Management Board for Puerto Rico."

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1 Correct?

2 A That's correct. Yes.

3 Q Would that give you any references to what was



4 the involvement of the FOMB in the preparation  
5 of the fiscal plan?

6 MS. DeCAMP: Objection. Calls for  
7 speculation.

8 BY MR. GARCIA:

9 Q You can answer.

10 A I genuinely -- I'm unaware of the extent of the  
11 involvement that the oversight board had in the  
12 development of the fiscal plan.

13 Q Okay. What does it mean to "certify" a fiscal  
14 plan?

15 MR. MERVIS: Object to the form.

16 A To the best of my knowledge, I do know. And to  
17 the best of my knowledge, the certification is a  
18 requirement under PROMESA, Section 2 -- under  
19 Section 2 of PROMESA, I believe it's Section  
20 201, that lays out a series of 14 criteria that  
21 need to be met for a fiscal plan to be able to  
22 be certified by the oversight board.

23 So it implies that the oversight -- in the  
24 oversight board's view, that the -- the  
25 certified fiscal plan met those criteria.

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1 BY MR. GARCIA:

2 Q Do you know what those criteria are?

3 MS. DeCAMP: Objection.

4 You can answer.

5 A Generally, yes.

6 BY MR. GARCIA:

7 Q Can you tell me what those are, to the best of  
8 your recollection?

9 A I would need your help pulling up PROMESA to  
10 look at the 14 criteria.

11 Q Right.

12 A I don't recall --

13 Q Perfect. I withdraw that one.

14 Do you have any recollection of what some  
15 of the criteria may be.

16 I'm not going to ask you about PROMESA. I  
17 can look it up. I just want to understand what  
18 your recollection may be about the fiscal plan.

19 A I don't recall, off the top of my head.

20 Q Okay.

21 A I would have to refresh my recollection.

22 Q That's fine. That's fair. We're not going  
23 there.

24 Did EY have any involvement in the  
25 preparation of the HTA fiscal plan?

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1 A To the best of my knowledge, no.

2 Q Did you personally have any involvement as an  
3 adviser to the FOMB?

4 MS. DeCAMP: Objection. Asked and answered  
5 but --

6 MR. GARCIA: The prior question was with  
7 respect to EY. I'm asking now whether he  
8 personally had --

9 MS. DeCAMP: Outside of EY? That's not  
10 within the scope of the deposition.

11 BY MR. GARCIA:

12 Q Any involvement?

13 A No, not that I recall.

14 Q Okay.

15 To your knowledge or your best  
16 recollection, was anybody else, aside from the  
17 FOMB, involved in the drafting of a fiscal plan  
18 like this one?

19 MR. MERVIS: Object to the form of the  
20 question.

21 BY MR. GARCIA:

22 Q You can answer.

23 A So I apologize asking you to clarify.

24 So you mean with respect to the HTA fiscal

25 plan or to just any fiscal plan?

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1 Q I'm actually referring to the HTA fiscal plan,

2 which is the one that's right on the board now.

3 A I understand.

4 I'm not aware of who was involved in the

5 development of the fiscal plans.

6 Q Okay.

7 A You did mention whether the FOMB's development

8 of the fiscal plan -- my understanding of the

9 process is the government submits a fiscal plan

10 to the FOMB that reviews that fiscal plan, and

11 ultimately it's certified -- whatever version is

12 certified is certified because it meets those 14

13 criteria in Section 201.

14 Q Okay. Good. That's actually what I was trying

15 to get. Thank you. I just didn't want to put

16 words in your mouth.

17 Let's go pages 49 to 51.

18 I'm specifically looking for Section 2.1.

19 We can't seem to find it.

20 MR. GARCIA: Sorry. I was directing my  
21 colleague to the wrong page in the document. My  
22 mistake. I apologize.

23 MR. MERVIS: Arturo, what page is it?

24 MR. GARCIA: Yes, Michael.

25 MR. MERVIS: What page number are you on?

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1 MR. GARCIA: We're on page 25, Section 2.1.

2 I was directing Alejandro to the wrong page.

3 Again, my mistake.

4 MR. MERVIS: Yes, I've got it. I couldn't  
5 see it on the screen.

6 MR. GARCIA: Yes, I know. This is why we  
7 were not finding it. It was my mistake.

8 MR. MERVIS: Okay.

9 BY MR. GARCIA:

10 Q There's language there, but I'm going to ask you  
11 a couple of background questions before I get to  
12 the language.

13 Do you know whether Act -- whether --  
14 strike that.

15 Before when we were talking about fiscal  
16 plans, you testified about revenue streams going

17 to the fiscal plans.

18 Do you remember that testimony?

19 A Generally, yes, I do.

20 Q Okay. And earlier, also, you testified about  
21 Act 30, 31, Revenues, and you described them in  
22 your own words as -- I don't recall whether you  
23 used the words "excise taxes," but you used  
24 "revenues generated by different statutes";  
25 correct?

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1 A I do not recall if those are the exact words  
2 that I used.

3 Q Right. Do you recall what the words were? I  
4 just want to put it in context.

5 MR. MERVIS: Object to form.

6 BY MR. GARCIA:

7 Q Please answer to the best of your recollection.

8 A To the best of my recollection, I recall saying  
9 that Act 30 relates to certain license fees and  
10 Act 31 relates to certain petroleum taxes and  
11 cigarette taxes.

12 Q And I ask the question, then, now, based on your  
13 answer, whether those types of revenues that

14           come out of those taxes that you just mentioned  
15           are sources of operating revenues for government  
16           instrumentalities.

17           Do you know?

18           MR. MERVIS: I object to the form.

19 BY MR. GARCIA:

20 Q   You can answer.

21 A   I -- I'm not aware of the use of those funds.

22 Q   I'm not asking you for the use of those funds,  
23       at least not yet.

24           I'm asking you whether those are sources of  
25       operating revenues.

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1           MR. MERVIS: Same objection.

2 A   I'm unaware if those particular revenue sources  
3       are operating revenues.

4 BY MR. GARCIA:

5 Q   Before -- strike the word "operating."

6           Are you aware whether they are sources of  
7       revenue?

8 A   For whom?

9 Q   For government instrumentalities?

10 A   I'm aware that, you know, the taxes under those

11 provisions, just like taxes under other  
12 provisions, are revenues. Whose revenues they  
13 are I can't necessarily speak to.  
14 Q Okay. Before we saw Acts 30 and 31, we saw them  
15 on the screen; correct?  
16 A Correct, yes.  
17 Q And we marked them as exhibits?  
18 A Yes.  
19 Q And I read some language of the two statutes  
20 into the record of the deposition, and I asked  
21 questions about those; correct?  
22 A You did, yes.  
23 Q And we were talking about Act 30, 31, Revenues;  
24 correct?  
25 A We were, yes.

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1 Q In light of our discussion earlier today and  
2 your knowledge of Acts 30, 31, do you understand  
3 that Acts 30, 31, revenues that come from the  
4 excise taxes are revenues to HTA in your -- in  
5 your understanding?

6 MS. DeCAMP: Objection.

7 MR. MERVIS: Object to the form.



8 BY MR. GARCIA:

9 Q Do you have an understanding of that?

10 A No. I do not believe that is the case.

11 Q You don't believe that they are revenues -- that  
12 the Acts 30, 31 aren't revenues?

13 A That was not your question, if I --

14 Q So explain to me your answer then.

15 MS. DeCAMP: Why don't you ask the question  
16 again, and then he can answer your question.

17 MR. GARCIA: Can I have the question read  
18 back. Not the last one, but the one prior to  
19 the last one.

20 (The requested text was read by the  
21 reporter.)

22 BY MR. GARCIA:

23 Q So Acts 30, 31, are they revenue?

24 A Okay. So yes, I believe that the money  
25 collected under those Acts is revenue.

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1 Q Okay. And do you have an understanding as to  
2 revenue for whom?

3 MS. DeCAMP: Objection.

4 You can answer if you have a personal

5 understanding.

6 A I do not have a personal point of view of that,  
7 no.

8 BY MR. GARCIA:

9 Q Okay. Please review while I read for the record  
10 the language that's highlighted in Exhibit 5.

11 The relevant language is, and I quote:

12 "Before 2015, HTA received appropriations  
13 of revenues from the cigarette tax, gasoline  
14 tax, diesel tax, petroleum tax, vehicle license  
15 fees collected by the Commonwealth. In 2015,  
16 the sitting governor issued Executive Order  
17 2015-046, pursuant to which the Commonwealth  
18 began retaining these revenues."

19 Do you see that language?

20 A I do.

21 Q Have you seen this language before?

22 A This particular language, to the best of my  
23 recollection, I have not.

24 Q Okay. The Executive Order 2015-046 that's  
25 referenced in the language that I quoted for the

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1 record, have you seen that executive order

2 before?

3 A To the best of my recollection, I have not.

4 Q So to the best of your recollection, did you not  
5 see the Executive Order 2015-046 in preparation  
6 for your deposition today?

7 A That is correct. And I'll just add that that  
8 executive order was issued in 2015, which was  
9 before the oversight board was constituted,  
10 PROMESA was passed, or EY was retained.

11 Q You are absolutely correct, yes.

12 Do you know whether Executive  
13 Order 2015-046 that is referenced in the HTA  
14 fiscal plan is still in place?

15 A My understanding is we're operating in a  
16 post-PROMESA world, and PROMESA is the statute  
17 that governs the development of these fiscal  
18 plans and the allocation of revenues.

19 Q Okay. So based on your answer that you just  
20 gave me, is it your understanding that Executive  
21 Order 2015-046 is not presently in effect?

22 MS. DeCAMP: Objection.

23 You can answer.

24 A I do not have a point of view. I am unaware.

25

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1 BY MR. GARCIA:

2 Q So the taxes that are referenced in the  
3 particular language that I read into the record,  
4 meaning cigarette tax, gasoline tax, diesel tax,  
5 petroleum tax, and vehicle license fees -- do  
6 you see that language?

7 A I do, yes.

8 Q Do you know what those words in the language  
9 that I read for the record refer to?

10 MS. DeCAMP: Objection.

11 You can answer.

12 A I am not positive.

13 BY MR. GARCIA:

14 Q Okay. Earlier, when we were talking about  
15 Acts 30, 31 and we were talking specifically  
16 about different taxes, you referred to cigarette  
17 taxes; correct?

18 A Correct.

19 Q You also referred to gasoline tax?

20 A Correct -- no. I think I referred to petroleum  
21 taxes but --

22 Q Okay. Petroleum tax. You referred to petroleum  
23 tax; correct?

24 A Correct.

25 Q I think you also referred to license fees?

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1 A Correct.

2 Q Do you know whether those taxes that are listed  
3 there and the license fees are the taxes that  
4 are referred to in Acts 30, 31?

5 MS. DeCAMP: Objection.

6 BY MR. GARCIA:

7 Q You can answer.

8 A I'm not positive.

9 Q So before when we were talking about those  
10 different taxes that we identified, what were  
11 you referring to?

12 A A portion of those taxes fall under Acts 30 and  
13 31, but a portion of the cigarette tax, for  
14 instance, goes for other purposes, as I  
15 understand it; so I don't necessarily --

16 I don't necessarily make the connection  
17 between these taxes being Act 30, 31 taxes or  
18 just the taxes in general.

19 Q Okay. But with respect to the ones that are  
20 listed on this paragraph that I highlighted for

21       you and also quoted for the record -- and,  
22       again, I'm referring to the cigarette tax, the  
23       gasoline tax, diesel tax, petroleum tax, and  
24       vehicle licenses fees collected by the  
25       Commonwealth, are these taxes that may be

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1       included in your best recollection in Acts 30  
2       and 31, to some extent?

3               MR. MERVIS: I object to the form.

4 BY MR. GARCIA:

5 Q   You can answer.

6 A   It is -- I'm not sure whether it's the same  
7       taxes.

8 Q   But are some of those taxes part of Act 30 and  
9       31 that we were discussing before?

10               MS. DeCAMP: Objection --

11               You can answer.

12 A   I'm not --

13               I can't say with certainty. I can't say  
14       with certainty that those are the same taxes  
15       that are being referenced.

16 BY MR. GARCIA:

17 Q   All right. Do Acts 30 and 31 include cigarette

18 tax? Include cigarette tax?

19 A Act 31 does, I believe, yes.

20 Q Do Acts 30 or 31 include gasoline tax?

21 A I believe it does, yes.

22 Q Do Acts 30 or 31 include diesel tax?

23 A I -- to the best of my recollection, I believe  
24 it does.

25 Q Do Acts 30 or 31 include petroleum tax?

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1 A To the best of my recollection, Act 31 does,  
2 yes.

3 Q So does Act 30 or 31 include vehicle license  
4 fees?

5 A To the best of my recollection, it includes a  
6 portion of the license fee under Act 30.

7 Q So, in other words, all those taxes or fees  
8 referenced in this particular section of the  
9 fiscal plan that I read into the record are  
10 included to some extent in Acts 30 and 31;  
11 correct?

12 MS. DeCAMP: Objection.

13 You can answer.

14 A Again, I apologize. I'm not positive that those

15 are the same -- the same specific taxes  
16 designated under those laws are the ones that  
17 are referenced here but --

18 BY MR. GARCIA:

19 Q I'm not trying to be difficult. I am not.

20 You just said with respect to each of those  
21 that they were part of, not probably, all of  
22 them, but to some extent, each of those --  
23 cigarette tax, gasoline tax, diesel tax,  
24 petroleum tax, and vehicle license fees -- were  
25 included within Act 30 or 31; is that correct?

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1 A Yes.

2 Q So then I ask you the question again with  
3 respect to the language in the highlighted  
4 portion: Do you understand, based on what we  
5 justified discussed, that the highlighted  
6 language is referring, at least in part or to  
7 some extent, to Act 30, 31 revenues?

8 MR. MERVIS: Object to the form.

9 BY MR. GARCIA:

10 Q You can answer.

11 A It is possible, but I cannot say with certainty.



12 Q Do you have any knowledge as to how those  
13 particular revenues were assigned to any  
14 government instrumentality?

15 And I mean the same revenues we're talking  
16 about: cigarette tax, diesel tax, petroleum tax,  
17 and vehicle license fees?

18 MR. MERVIS: Objection to form.

19 A Over which time period do you mean?

20 BY MR. GARCIA:

21 Q Well, let's say from -- before 2015. Before  
22 the --

23 MR. MERVIS: Objection.

24 BY MR. GARCIA:

25 Q Do you know?

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1 MS. DeCAMP: Objection.

2 BY MR. GARCIA:

3 Q Okay. Do you know?

4 A I am personally not familiar with the  
5 allocation.

6 The way we produce budgets is we take the  
7 revenues from the fiscal plan and use that as an  
8 envelope, and so there's no distinction or

9 differentiation between the revenues.

10 Q Okay. So when you create a budget, you have  
11 revenues on one side; correct?

12 MS. DeCAMP: Objection.

13 You can answer.

14 A When you create a budget --

15 So the first step -- I think we covered  
16 this at the very beginning -- the first step in  
17 the budget process is to issue a revenue letter  
18 which sets the envelope for spending under that  
19 budget, and that revenue envelope is drawn from  
20 the fiscal plan.

21 BY MR. GARCIA:

22 Q Great.

23 And do those revenues include taxes such as  
24 cigarette tax, gasoline tax, diesel tax,  
25 petroleum tax, and vehicle license fees

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1 include -- there may be other sources, but do  
2 they include those types of taxes or fees?

3 MR. MERVIS: Objection.

4 BY MR. GARCIA:

5 Q You may answer.

6 A I can't say for certain. We quite literally  
7 take a, you know, the output of the total  
8 revenues from the fiscal plan and that sets the  
9 revenue envelope for spending.

10 Q Okay.

11 A It doesn't differentiate between what -- those  
12 revenues -- what revenues are included, which I  
13 believe is your question.

14 Q So when you create a budget, you take a  
15 number -- a total number for revenues and  
16 include that in the budget.

17 Is that what you're telling me?

18 A Sorry. Can you repeat the question.

19 MR. GARCIA: Can you read it back, please.

20 (The requested text was read by the  
21 reporter.)

22 MR. MERVIS: Note my objection, please.

23 BY MR. GARCIA:

24 Q You can answer.

25 A The process is set by the -- the expenditures

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1 are set to match the -- to equal the revenues.

2 Q Yes. And am I understanding that to be a

3 balanced budget?

4 A No, not at all.

5 Q When revenues are equal to expenses -- that's  
6 what you just said; right? -- are you referring  
7 to a balanced budget?

8 A No, I'm not.

9 MR. MERVIS: Hold, hold. Objection to the  
10 form.

11 BY MR. GARCIA:

12 Q What are you referring to?

13 A I'm referring to your question which is do  
14 expenses equal the revenue in the revenue  
15 letter.

16 Q All right. So again, my question really was  
17 whether -- when you are creating a budget, you  
18 take a total number of revenues that the entity,  
19 let's say the Commonwealth, is expecting to  
20 receive and drop that into the budget.

21 Is that how do you it?

22 MR. MERVIS: Object to the form.

23 MS. DeCAMP: Objection.

24 BY MR. GARCIA:

25 Q You can answer.

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1 A No.

2 We take the revenues from the fiscal plan  
3 to set a revenue parameter for spending, and  
4 then the government develops a budget based off  
5 of that revenue parameter, envelope, if you  
6 will.

7 Q And is that revenue parameter provided in a  
8 total number of revenues?

9 A Generally, in the revenue letter that I  
10 reference, yes.

11 Q Okay. Is the revenue parameter at any point in  
12 time provided in specific numbers coming from  
13 specific -- from particular sources?

14 A For which -- dish mean, over what time --Over  
15 what time frame.

16 Q Just in general, I'm talking about the  
17 preparation of a budget.

18 A So for -- as an example for the current year's  
19 budget, the revenue letter is just one number  
20 for total general fund spending.

21 Q Right.

22 And is that revenue parameter or number in  
23 the revenue letter? Is it otherwise informed or  
24 split into different revenue sources anywhere in

25 the process of creating a budget?

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DRAFT -- NOT PROOFREAD

1 MR. MERVIS: Objection to the form.

2 A For the current year budget, the revenue letter  
3 has one line, has one number for general fund  
4 spending that can be spent.

5 BY MR. GARCIA:

6 Q Mr. Chepenik, can you please refer me back to  
7 your experience in preparing a budget for  
8 government instrumentality.

9 MS. DeCAMP: Objection.

10 BY MR. GARCIA:

11 Q You can answer.

12 A I apologize. I don't understand the question.

13 Q What of the question you don't understand? I'm  
14 asking you about your experience in preparing  
15 budgets for government instrumentalities.

16 Do you have experience preparing budgets  
17 for government instrumentalities?

18 A Generally, yes. I've helped in my role at EY  
19 as -- in the preparation of the review of the  
20 budgets. I'm not -- I apologize. It's not  
21 clear to me what you're asking.

22 Q I'm just in general asking you about your  
23 experience in preparing budgets. You know,  
24 you've given me your experience before and now  
25 in the answers to my question, you are, you

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1 know, kind of straying way from that experience.  
2 I'm trying to ask you now to put it in black and  
3 white in context what is your experience  
4 preparing a budget for a government  
5 instrumentality or reviewing a budget?

6 MS. DeCAMP: I will object -- I object to  
7 the argumentative preface before you got to what  
8 your actual question was.

9 MR. GARCIA: Okay.

10 MR. MERVIS: I object to the part that came  
11 after --

12 MR. GARCIA: Keep the argument aspect of  
13 the question, and just go to the question.

14 BY MR. GARCIA:

15 Q What is your experience in either preparing or  
16 reviewing budgets for government  
17 instrumentality?

18 A I helped work with and oversee the team at EY

19 that helps review the budgets for the oversight  
20 board.

21 Q And in that role, as you just defined, what do  
22 you do to review the budgets? What do you look  
23 at?

24 A We look at the submissions from the government  
25 on the spending parameters to validate that

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1 those proposed spending parameters are both  
2 within the revenue envelope that's sent out  
3 through the revenue letter in consistency with  
4 the fiscal plan.

5 Q And specifically, what do you look at to  
6 determine the consistency with the fiscal plan?

7 A We would look at the budget documents that are  
8 submitted and oftentimes something called a  
9 Savannah file which is a very detailed level  
10 spending allocation that the government  
11 proposes.

12 Q You mean the what the Savannah file?

13 A It's an Excel document.

14 Q It's like a schedule?

15 A Yeah, a schedule of spending.



16 Q I know what you mean by Savannah by the way.

17 It's very local here.

18 In those documents that you review, would  
19 you take --

20 Would you see the different types of  
21 revenue streams that are included within a  
22 budget before it's finalized?

23 A No. I would not.

24 Q So you only see the total amount of revenues?  
25 That's all you see?

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1 A No. I would not see revenues at all. It's a  
2 spending pending plan.

3 Q You only see the spending part of the budget?

4 A That's correct. The budget is -- it's an  
5 expense -- it is an expense plan. There is no  
6 revenue component.

7 Q All right. So you don't -- so the government's  
8 budget does not have a revenue component?

9 A The budget is a expensing plan. So we're just  
10 looking at whether the totals of that spending  
11 plan are consistent with the revenue envelope  
12 that was sent out in the revenue letter from the

13 oversight board. In that revenue letter for  
14 this year's budget as an example has one line --  
15 not even one line. One number for total  
16 spending for the general fund. So --

17 Q Have you ever seen the complete budget for the  
18 government instrumentalities government of  
19 Puerto Rico?

20 MR. MERVIS: Object to the form of the  
21 question.

22 BY MR. GARCIA:

23 Q Have you seen it?

24 A I've seen the certified budgets, yes.

25 Q What do those certified budgets include?

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1 MS. DeCAMP: Object.

2 A They include the certified budgets include the  
3 pending allocations by agency.

4 BY MR. GARCIA:

5 Q Only the spending allocations?

6 A To the best of my recollection, yes. Only the  
7 spending allocations.

8 Q Do you assist the FOMB in its review of the  
9 budgeting process at the Puerto Rico

10 legislature?

11 A EY. EY does, yes.

12 Q Who at EY?

13 A It varies. But typically it's myself, Juan  
14 Santambrogio, and Sophia I can't pan.

15 Q Okay. I'm now referring to yourself as a  
16 principal of EY. Okay? Do you assist the FOMB  
17 in its review of the budget process within the  
18 Puerto Rico legislature?

19 A Over which time period? You mean the most  
20 current year? Past years? What?

21 Q Let's say the last four years, since you've been  
22 employed at EY?

23 A I have. Yes.

24 Q Okay. And what is your role in helping the FOMB  
25 with the review of those budgets?

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1 A So my personal --

2 Q By the way. -- strike that.

3 I'm not talking about the certified budgets  
4 of the fiscal board. I'm talking about the  
5 government budget as it's going through the  
6 legislative process before the Puerto Rico

7 [legislation. Do you understand the explanation  
8 to my question?

9 A I do.

10 Q All right now I'm going to ask you what is your  
11 role in that process?

12 A My role is to oversee the team that is it  
13 evaluating in clap breaks, frankly, with the  
14 oversight board staff, both the documents and  
15 the spending parameters that are submitted by  
16 the government.

17 Q Okay. And in that role, you see the pending  
18 parameters; correct?

19 A The proposed spending parameters, correct.

20 Q Do you also see revenue participate parameters?

21 A No. Not generally the revenue parameter is set  
22 by the revenue letter that's issued by the  
23 oversight board.

24 Q So when the Puerto Rico legislature puts  
25 together a budget, it plugs in a number from the

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1 certified board, from the FOMB, and then it  
2 works on the spending side. Is that what you're  
3 telling me?

4 MR. MERVIS: Objection to the form.

5 MS. DeCAMP: Objection. You can answer.

6 A To the best of my knowledge, generally that's  
7 the case. I could not tell you for certain. I  
8 could not tell you for certain. That is how it  
9 should work.

10 BY MR. GARCIA:

11 Q What is the last budget of the Puerto Rico  
12 government, the Commonwealth government, that  
13 you saw?

14 A I don't recall off the top of my head. I  
15 believe there were submissions at different  
16 points in time during this year's budget  
17 process.

18 Q Okay. So let's refer them to this year's budget  
19 process.

20 When was the budget for this year, this  
21 fiscal year, approved by the Puerto Rico  
22 legislature? Do you know?

23 A The date it was approved.

24 Q Yeah. More or less.

25 A I believe they certified a budget --

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1           Actually I don't recall the specific date.

2   Q   Do you --

3   A   It was in late June, I recall, but I don't  
4       recall the specific date.

5   Q   Do you know? Do you know what the fiscal year  
6       of the Puerto Rico government is?

7   A   This fiscal year.

8   Q   Do you know what the fiscal year, do you know  
9       when does it run from, to, in the case of the  
10      Puerto Rico fiscal year?

11   A   The Puerto Rico fiscal year runs from July 1 to  
12      June 30.

13   Q   So isn't it correct that a budget for the  
14      Puerto Rico government's fiscal year needs to be  
15      approved before the start of the fiscal year;  
16      isn't that correct?

17           MS. DeCAMP: Objection.

18           You can answer.

19   A   A budget needs to be certified by the oversight  
20      board before the beginning of the fiscal year.

21   BY MR. GARCIA:

22   Q   I'm not talking about the role of the fiscal  
23      board in certifying T I'm asking about your  
24      knowledge. You indicated that the Puerto Rico  
25      fiscal year runs from July 1 to June 30. I'm

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1 asking you a straightforward question.

2 Do you know whether the Puerto Rico

3 government budget needs to be approved before

4 the start of the Puerto Rico fiscal --

5 Puerto Rico government fiscal year?

6 MS. DeCAMP: Objection. You can answer.

7 A To the best of my knowledge, yes. The budget

8 needs to be approved prior to the commencement

9 of the next fiscal year.

10 BY MR. GARCIA:

11 Q Okay. In other words, the work on the budget

12 needs to happen before the commence meant of the

13 following fiscal year; correct?

14 A That's correct. Yes.

15 Q And were you involved in the process of review

16 of the budget process of the Puerto Rico

17 legislature -- Puerto Rico government, prior to

18 its approval on our about June 30?

19 A Me personally you mean?

20 Q You personally. Yes.

21 A I personally was somewhat involved.

22 Q Okay. So what was your involvement?

23 A Primarily overseeing the team, the development  
24 of some of the materials that we shared with our  
25 client in the production of those documents.

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1 Q What were those documents that you oversaw the  
2 development or the production of?

3 A There's a -- there's an actual budget  
4 presentation, like a PowerPoint type  
5 presentation, explaining the components of the  
6 budget.

7 There's a certified resolutions themselves.

8 And associated components within the  
9 certified resolutions. So there are -- there's  
10 a lot of control language that goes into the  
11 budget.

12 Q Okay. So when you say a budget presentation  
13 that has the different components, what are  
14 those components?

15 A Well, it just described --

16 If it's the document I'm thinking of, it's  
17 a document used in one of the public board  
18 meetings where executive director Jaresko  
19 explained, you know, what was within that



20 budget.

21 Q Again, I ask the question, what are the  
22 components that are included in that budget  
23 presentation?

24 A It includes different cuts, if you will, of the  
25 spending breakdown of the government.

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1 Q Does that presentation include anything on  
2 revenue?

3 A To the best of my recollection, it does not.

4 Q And again, I'm referring to the Puerto Rico  
5 legislative process to enact the budget, not the  
6 certification by the board but just the  
7 Puerto Rico legislative process.

8 That's what I'm referring to.

9 A Okay. Sorry. Maybe I misunderstood the  
10 question.

11 Q So when I asked the question about what  
12 documents in that legislative process to put  
13 together the budget, you saw or you worked with,  
14 you indicated a budget presentation. Was that a  
15 budget presentation for the Puerto Rico  
16 legislature?

17 A No. It was not. I apologize. I was referring  
18 to ultimately the budget that was certified by  
19 the oversight board at the end of the process.

20 Q Okay. Well, that's fine but that's not what I'm  
21 referring to.

22 I know what a certified budget by the board  
23 is.

24 I'm looking at the Puerto Rico legislative  
25 process for the preparation of a budget. Okay?

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1 I'm going to ask you the question again  
2 because you may have been referring to the  
3 certification process. So I'll ask you, what  
4 involvement, if any, you had with respect to  
5 that process?

6 MR. MERVIS: Objection to the form.

7 A The best of my recollection, I was not involved  
8 in the direct legislative negotiations that the  
9 Puerto Rico legislature had internally. EY and  
10 my involvement was more around the proposed  
11 budget that the legislature wanted to evaluate  
12 whether or not that was consistent with the  
13 fiscal plan.

14 BY MR. GARCIA:

15 Q Okay. And in evaluating whether the proposed  
16 budget was consistent with the fiscal plan, what  
17 documents did you see related to the budget?

18 A The proposed spending allocations.

19 Q You only looked at the proposed spending  
20 allocations?

21 A Correct. Yes.

22 Q You never looked at the expense side, you,  
23 yourself?

24 A I apologize. You have to help me understand the  
25 difference between spending and expenses.

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1 Q I'm sorry. I'm sorry. I misspoke.

2 The revenue side of the budget.

3 A Correct. The budget itself is a spending --  
4 it's a spend -- it's not a revenue document.

5 Q The Puerto Rico budget only includes the  
6 spending side?

7 A To the best of my recollection yes. That's  
8 correct.

9 Q So, in other words, under oath you're testifying  
10 here today that the budget prepared by the

11 Puerto Rico legislature only includes a spending  
12 side?

13 MS. DeCAMP: Objection.

14 You can answer.

15 A The revenue is set through the revenue letter  
16 that's issued by the oversight board at the  
17 beginning of the budgeting process.

18 That's the revenue that I'm aware of that's  
19 used as the envelope of total spending. The  
20 process the legislature undertakes is to set a  
21 spending plan of expenditures consistent with --  
22 that should be consistent with that revenue  
23 envelope that's set by the oversight board.

24 BY MR. GARCIA:

25 Q So your testimony is that the Puerto Rico

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1 legislature has absolutely no role in  
2 determining what revenues are going to go into  
3 the budget?

4 MS. DeCAMP: Objection.

5 BY MR. GARCIA:

6 Q Is that your testimony?

7 You can answer.

8 A My testimony is that the revenues that are used  
9 for the budgeting process each year are defined  
10 under PROMESA under Section 202. That process  
11 defines that the oversight board is the one to  
12 send a revenue letter defining the revenue  
13 envelope from which the government can allocate  
14 spending.

15 Q So if I were to go and look at a Puerto Rico  
16 government budget I would see a revenue letter  
17 and a spending budget? That's what you're  
18 telling me?

19 MS. DeCAMP: Objection.

20 A I can only speak to the certified budget that  
21 you would see. If you looked at the certified  
22 budget you would see a spending parameters  
23 defined by agency.

24 BY MR. GARCIA:

25 Q I'm going to ask you the question again.

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1 Have you ever looked at a Puerto Rico  
2 government budget approved by the legislature of  
3 Puerto Rico?

4 A Yes, I have.

5 Q Can you tell me what that looks like?

6 A This year's budget was approved by the  
7 Puerto Rico legislature. And that is a very  
8 lengthy document that lists out different levels  
9 of spending for different agencies, in a fair  
10 amount of detail, actually.

11 Q It only has the different levels of spending?  
12 It doesn't have a revenue side other than the  
13 revenue letter that comes from the fiscal board.  
14 That's your testimony?

15 A To the best of my recollection, that is correct.  
16 The certified budget and the budget passed by  
17 the legislature this year, lists out all of the  
18 spending by agency in a fair amount of detail.

19 Q Are you aware of any requirement that the budget  
20 of the government of Puerto Rico be a balanced  
21 budget?

22 MS. DeCAMP: Objection. But you can  
23 answer.

24 A I'm aware of the need for the budget to be  
25 consistent with the fiscal plan. And that's the

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1 approach that the review has taken.

2 BY MR. GARCIA:

3 Q Sir, do you know what a balanced budget is?

4 A It depends on what you mean by balanced budget.

5 Q Do you know what it is? What a bad budget is.

6 I'm not asking --

7 I'm not asking you about the certified  
8 budget bit fiscal board. Do you know what a  
9 balanced budget is for the a government?

10 MS. DeCAMP: Objection.

11 You can answer.

12 A It depends on what you mean. So it's not clear  
13 to me whether you mean on an accrual --

14 BY MR. GARCIA:

15 Q What do you understand?

16 MR. MERVIS: Arturo he hadn't finished his  
17 answer.

18 A You know, it's not clear to me when you say  
19 balanced budget, there's a lot of different  
20 meanings to that. I don't know whether you mean  
21 on an accrual basis, on a cash basis, what  
22 specifically you mean by balanced budget.

23 BY MR. GARCIA:

24 Q I'm asking you whether you know if the  
25 Puerto Rico government budget needs to be a

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1 balanced budget?

2 MR. MERVIS: Object to the form.

3 MS. DeCAMP: Objection.

4 A All I know is that the budget that can be  
5 certified by the oversight board needs to be  
6 consistent with the fiscal plan.

7 BY MR. GARCIA:

8 Q I'm going to have to take a break here, sir.  
9 The videographer. Justin can we take a  
10 ten-minute break.

11 THE VIDEOGRAPHER: We'll go off the record  
12 at 2:07.

13 (A recess was taken.)

14 THE VIDEOGRAPHER: Back on the record at  
15 2:19.

16 MR. GARCIA: So, Mr. Cepeda, I'm going to  
17 ask you to put back on the screen the subpoena  
18 for the deposition today. I believe it was  
19 Exhibit 1.

20 BY MR. GARCIA:

21 Q Do you see the document on the screen now?

22 A I do.

23 Q You saw that document earlier today when we were



24 starting the deposition; correct?

25 A Correct, yes.

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1 Q I'm going to ask you to take a look at Topic

2 Number 2. And that topic reads:

3 "Whether or not the Commonwealth had a  
4 balanced budget for each fiscal year from 2016  
5 to the represent, including any efforts  
6 undertaken by FOMB to determine whether or not  
7 the Commonwealth had a balanced budget for each  
8 of those fiscal years."

9 Do you see that?

10 A I do.

11 Q I'll first ask you how did you prepare to answer  
12 questions with respect to this particular topic  
13 of the subpoena?

14 A I had a number of conversations with counsel and  
15 with my team trying to better understand what it  
16 could mean.

17 Q What was?

18 A What could be meant by this -- by this topic  
19 because to me, it's actually not very clear.

20 Q So what's your understanding of the topic? your

21 general understanding of the topic?  
22 A Well, I'm not entirely sure. That's why I was  
23 asking whether you meant a balanced budget on an  
24 accrual basis, on a cash basis, and what  
25 specifically you mean by a balanced budget.

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1 You know, where I settled in my preparation  
2 for this deposition is that you meant -- you  
3 meant -- actually, I wasn't sure whether you  
4 meant on an accrual or a cash basis. It was one  
5 of the clarifying questions I was hoping you  
6 could answer for me.

7 Q Go ahead.

8 A Under both cases, though, I don't believe that  
9 the Commonwealth had a balanced -- has had a  
10 balanced budget for each fiscal year from Fiscal  
11 '16 to the present.

12 Q So that is either a balanced budget in either  
13 scenario that you mentioned?

14 A Accrual?

15 Q Correct.

16 A On an accrual basis or on a cash basis?

17 Q Or on a cash basis.

18           So your testimony is that the Commonwealth  
19           had -- you understand the Commonwealth does not  
20           have a balanced budget on -- for any year from  
21           2016 to the present under either an accrual  
22           basis or under a cash basis?

23           MS. DeCAMP: Objection.

24 BY MR. GARCIA:

25 Q   You can answer.

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1           MS. DeCAMP: You can answer from --

2 A   Yeah.

3           MS. DeCAMP: -- whatever year after EY  
4           became engaged to do work for the board forward.

5 A   That's actually what I was going to say. I  
6           can't say with any certainty for Fiscal '16 or  
7           Fiscal '17, but as it relates to Fiscal '18,  
8           '19, '20, and '21 and '22, the five years in  
9           which the oversight board has been constituted  
10          to review and certify budgets and in which EY  
11          was engaged, during those years, under PROMESA,  
12          the budgets most certainly have not been  
13          balanced on an accrual or even on a cash basis.

14 BY MR. GARCIA:

15 Q Okay. And can you tell me why they have not  
16 been balanced under either an accrual or a cash  
17 basis?

18 A Certainly.

19 Q Please do.

20 A Well, for one matter, debt service is not being  
21 paid on the central government's debt. We're  
22 operating in a Title III framework.

23 So not all expenses, particularly debt  
24 service, are being paid, and that would be a  
25 requirement for you to have either an accrual or

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1 a cash-based balanced budget.

2 Q Any other reason why any of those budgets for  
3 the last four years has not been balanced either  
4 on the actuarial basis or the cash basis?

5 A That's the primary reason that I can think  
6 about.

7 Q All right. But could there be any other reason,  
8 aside from the primary one on the debt service?

9 A There are other expenses that potentially could  
10 not be paid in which case those would -- those  
11 would be also sort of accrued balances that are

12 due to be budgeted and paid but are not being  
13 budgeted and paid.

14 Q Do you recall any of those types of expenses?

15 A There isn't one that particularly comes to mind,  
16 but I can think, you know, historically  
17 vendor -- vendor payments is fairly typical  
18 where those may not -- those accrued payments to  
19 providers of services to the government were not  
20 budgeted, would be an example.

21 Q Okay. And for any one of those four years, '18,  
22 '19, '20, '21, where you've been engaged to EY  
23 to work with the Commonwealth -- I'm sorry --  
24 with the FOMB, and the FOMB has been in place in  
25 Puerto Rico, do you know whether the budgets

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1 were balanced at the beginning of the year --

2 A So --

3 Q -- fiscal year -- of each fiscal year?

4 A Again, even though the budgeting process is  
5 under PROMESA, in which EY was engaged, is  
6 actually straightforward. It's a fairly  
7 straightforward process. And that process takes  
8 the revenue envelope from the fiscal plan and

9 allocates, based on the government's spending  
10 parameters, spending along that revenue  
11 envelope.

12 Ultimately, the budget that's certified by  
13 the oversight board is a budget that has  
14 expenditures that are consistent and in line  
15 with that revenue envelope.

16 So I -- you know, to the best of my  
17 knowledge, under no circumstances would any of  
18 those budgets have been balanced at the  
19 beginning of the year, again, because debt  
20 service is not being paid. And you have to  
21 budget for debt service for you to have a  
22 balanced budget on either accrual or cash basis.

23 Q But for each one of those four budgets, again,  
24 '18, '19, '20, '21, there was not an allocation  
25 for payment of the debt service; correct?

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1 A That is correct. For the central government,  
2 there was not an allocation for debt service.

3 Q So in that respect, Mr. Chepenik, was the  
4 balance -- in light of the fact that the budget  
5 did not call for payment of the debt service,

6 was the -- was the budget balanced at the  
7 beginning of the year?

8 MS. DeCAMP: Objection. Asked and  
9 answered.

10 BY MR. GARCIA:

11 Q Was it balanced?

12 MS. DeCAMP: You can answer.

13 A I think, if I can sort of take a little bit of  
14 latitude here, and tell me if I'm wrong, but I  
15 think the word "balanced" is incorrect.

16 What I would say is that the expenses that  
17 were budgeted for equal the revenue envelope  
18 that's designated by the oversight board.

19 The revenues and the budgeted expenses are  
20 equal, but under no circumstances, on an accrual  
21 base or on a cash basis, were those budgets  
22 balanced at the beginning of the year, middle of  
23 the year, or end of the year.

24 BY MR. GARCIA:

25 Q And the reason for that is that there is no

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1 allocation for the payment of debt service?

2 A That's the primary reason, correct.

3 Q Correct. All right.

4 So my question was based on there being no  
5 allocation for payment of debt service.

6 It was not included as an expense on the  
7 budget; right?

8 A (Nods head.)

9 Q You have to answer verbally.

10 A Correct. For the central government, that is  
11 correct.

12 Q So at least at the beginning of the year,  
13 because there was no particular expense for the  
14 payment of debt service, deal debt service, the  
15 budget that was approved would have been  
16 balanced with respect to revenues and expenses?

17 MS. DeCAMP: Objection.

18 BY MR. GARCIA:

19 Q You can answer.

20 A I apologize, but I would not say it was  
21 "balanced," which is the word I think you're  
22 emphasizing.

23 What I would say is that the expenses that  
24 were budgeted equaled the revenue envelope. But  
25 equal, having those two -- having revenues and



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1 expenses equal to each other in this context  
2 under PROMESA does not mean that it's a balanced  
3 budget.

4 It's not because there was no allocation  
5 for GO debt service. There is an obligation  
6 that is still accruing to be paid, but it is not  
7 being budgeted to be paid. That's why it's not  
8 balanced on an accrual basis.

9 Q So you're now giving me your legal opinion?

10 A No.

11 MS. DeCAMP: Objection.

12 MR. MERVIS: Objection.

13 BY MR. GARCIA:

14 Q Because I didn't ask for your legal opinion.

15 MS. DeCAMP: Objection. It wasn't a legal  
16 opinion.

17 MR. GARCIA: All right. Well, his  
18 understanding then. That's okay.

19 BY MR. GARCIA:

20 Q So did you meet with anybody at the FOMB to  
21 prepare for this particular topic in the list of  
22 topics for examination?

23 MR. MERVIS: Objection to the form.

24 A When you say "meet with anyone at the FOMB" --

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1 BY MR. GARCIA:

2 Q Did you meet with anyone to prepare for this  
3 particular topic?

4 MR. MERVIS: Same objection.

5 A I met with the people that I mentioned at the  
6 beginning to talk through all of the topics  
7 except for Topic Number 1.

8 BY MR. GARCIA:

9 Q So only lawyers from Proskauer?

10 A I also have met with my team.

11 Q Yes.

12 A EY.

13 Q But at the FOMB, did you meet with anybody in  
14 particular at the FOMB, not lawyers from  
15 Proskauer, to prepare for this topic?

16 A If you mean oversight board staff --

17 Q Yes.

18 A -- or oversight board members?

19 Is that what mean?

20 Q Oversight board members. Let's start with  
21 those.

22 Did you meet with any oversight board

23 members to prepare for this topic?

24 A Not that I remember, no.

25 Q Did you meet with Natalie Jaresko to prepare for

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1 this topic?

2 A No.

3 Q Did you meet with any other oversight board

4 staff to prepare for this topic?

5 A No, not that I remember.

6 Q Your testimony is that you did not meet with

7 anybody from the oversight board to prepare for

8 this topic; correct?

9 MR. MERVIS: Objection.

10 A You know, that's correct. I met with the

11 Proskauer team, and I met with my team.

12 BY MR. GARCIA:

13 Q So only your team and the Proskauer team?

14 A Correct.

15 Q Okay.

16 Do you know whether anybody at the FOMB

17 would have knowledge about this particular

18 topic?

19 MS. DeCAMP: Objection.

20 BY MR. GARCIA:

21 Q I'm not talking about Proskauer.

22 Anybody -- any board member, executive  
23 director, or staff of the FOMB would have  
24 knowledge about this topic?

25 MS. DeCAMP: Objection.

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1 You can answer.

2 A I am not aware of what the oversight board,  
3 staff, or board members may or may not know on  
4 this topic.

5 BY MR. GARCIA:

6 Q So the answer is you don't know?

7 A The answer is I am not aware of what they may or  
8 may not know.

9 Q Did you try to determine whether anybody at the  
10 FOMB would have knowledge on this topic to meet  
11 with them to prepare for today?

12 A I'm sorry. Can you repeat the question?

13 MR. GARCIA: Can I have it read back,  
14 please.

15 (The requested text was read by the

16 reporter.)

17 A No, I did not.

18 BY MR. GARCIA:

19 Q There's a second part to this second topic after  
20 the word "to the present," and I quote:

21 "Including any efforts undertaken by FOMB  
22 to determine whether or not the Commonwealth had  
23 a balanced budget for each of those fiscal  
24 years."

25 Do you see that language?

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1 A Yes.

2 Q So did you meet with anybody at the FOMB, either  
3 members, the director, or staff, to prepare for  
4 this topic?

5 A To the best of my recollection, I did not, no.

6 Q Did you try to determine whether anybody at the  
7 FOMB, either at the level of the board members  
8 or the director or staff, had any particular  
9 knowledge that they could convey to you in  
10 preparing for the deposition today?

11 A Sorry. Can you repeat that question one more  
12 time?

13 MR. GARCIA: Yes.

14 Can I have it read back, please.

15 (The requested text was read by the  
16 reporter.)

17 A To the best of my recollection, I -- no.

18 BY MR. GARCIA:

19 Q Okay. Let's go to Topic Number 3.

20 Do you see that?

21 A Yes.

22 Q Okay. And that reads:

23 "Whether or not the available revenues of  
24 the Commonwealth were insufficient to meet the  
25 appropriations for each fiscal year from 2016 to

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1 the present, including any efforts undertaken by  
2 the FOMB to determine whether available revenues  
3 of the Commonwealth were insufficient."

4 I'm going to modify this question to --  
5 this topic to make it 2018 onward. So 2018,  
6 2019, '20, and '21, the four years you've been  
7 employed with EY that the FOMB has been around.

8 (Reporter request for clarification.)

9 Q So that's my modification to the topic, just to

10 account for the fact that you, nor the FOMB,  
11 were here since 2016. Okay?

12 So do you know --

13 Did you meet with anybody from the FOMB at  
14 the level of members, the executive director, or  
15 staff to prepare for Topic Number 3?

16 A To the best of my recollection, no.

17 Q Did you do anything to try to determine whether  
18 anyone at the FOMB, again at the level of the  
19 board members, director, or the staff, would  
20 have any knowledge to help you prepare for the  
21 deposition today?

22 A The best of my recollection, no.

23 Q With respect to that question, Mr. Chepenik,  
24 what, if anything, is your understanding  
25 regarding the language:

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1 "Available revenues of the Commonwealth  
2 were insufficient to meet the appropriations for  
3 each fiscal year, 2018 to 2021"?

4 Do you have an understanding of that?

5 A I was actually going to ask you a question about  
6 the term "available revenues" because I did not

7 see them defined as one of the definition terms  
8 in the subpoena.

9 Can you just clarify what you mean by  
10 "available revenues" for me?

11 Q Sure.

12 Revenues are available for the payment of  
13 expenses in a budget. It's a pretty broad  
14 definition.

15 A I apologize to ask for some more specificity;  
16 however, I think it would be helpful if you have  
17 specific revenues in mind that are considered as  
18 available revenues.

19 Q It's all available revenues in Puerto Rico.

20 A Okay. My understanding is you would be  
21 referring to all revenues that are projected in  
22 the fiscal plan, and if that's -- if that's  
23 correct, then I would say that available  
24 revenues are insufficient to meet all of the  
25 needs of the government.

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1 So that's why the government is in  
2 bankruptcy in Title III.

3 Q What is the basis for your understanding?



4 A I think expenses are -- total expenses exceed  
5 the available revenues.

6 Q Are you familiar with the clauses of the  
7 Puerto Rico Constitution in Article VI,  
8 Sections 7 and 8, that have to do with balanced  
9 budgets?

10 MS. DeCAMP: Objection. Outside the scope.

11 BY MR. GARCIA:

12 Q Are you familiar?

13 A Not particularly. I'm not, no.

14 Q Have you ever reviewed the Puerto Rico  
15 Constitution as part of your work at EY for the  
16 FOMB?

17 A To the best of my recollection, no.

18 Q All right. I'm going to ask you to look at  
19 Topic Number 4. I'm just going to read it for  
20 the record while you review it.

21 The topic reads, and I quote:

22 "Whether or not any revenues of the  
23 Commonwealth were diverted, retained,  
24 reallocated, or redirected in order for there to  
25 be sufficient available revenue to meet the

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1        appropriations made for each fiscal year from --  
2        modification, 2018 to the present, including any  
3        efforts undertaken by FOMB to evaluate the  
4        amounts of revenues to divert, retain,  
5        reallocate or redirect."

6                Do you see that?

7    A    Yes, I do.

8    Q    Did you meet with anybody at the FOMB, either at  
9        the level of the board members, director, or  
10       staff, to prepare for this topic?

11   A    To the best -- or staff --

12                To the best of my recollection, no, I did  
13       not.

14   Q    Did you undertaken take any effort to determine  
15       whether anybody at the FOMB would have  
16       information to help you prepare for this topic  
17       in the notice?

18   A    When you say "at the FOMB," do you mean the  
19       board members, executive director, or the staff?

20   Q    That's correct.    Yes.

21   A    In that case, no, to the best of my knowledge  
22       and recollection, I did not.

23   Q    So again, I guess -- I'm not going to guess.  
24       Strike that.

25                Your testimony would be that you met with

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1 your team members and attorneys from Proskauer?

2 A Correct.

3 Q Okay.

4 A In preparation for this.

5 Q Yes.

6 A Correct.

7 Q Okay.

8 Do you mean --

9 Do you know what it means when revenues are  
10 diverted? Do you have any understanding of  
11 that?

12 MS. DeCAMP: Objection.

13 MR. MERVIS: Objection to the form.

14 MS. DeCAMP: You can answer.

15 BY MR. GARCIA:

16 Q You can answer.

17 A I do not have -- a personal view? I do not have  
18 a personal view on what that means --

19 Q Okay.

20 A -- in the context of this question.

21 Q Do you have any personal understanding of what  
22 "retained" means in that topic?

23 A I do not have a personal view on the word

24 "retained" in this context.

25 Q What about "reallocated"?

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1 A No. I do not have a personal view on what that

2 term means in this context.

3 Q What about "redirected"?

4 A In this context, I do not have a personal view.

5 Q Are you familiar with the word "clawback"

6 A I am, yes.

7 Q What is your understanding of "clawback"?

8 A It means -- it's a defined term in the subpoena.

9 Q So what is your understanding of clawback, if  
10 any?

11 MS. DeCAMP: Objection.

12 BY MR. GARCIA:

13 Q You can answer.

14 A If it relates to -- I mean, it's a defined term

15 in the subpoena. It relates to --

16 It relates to certain types of public

17 funds.

18 Q That's what states -- that's what's stated in

19 the subpoena. I'm asking whether you have an

20 understanding about what "clawback" means?

21 MS. DeCAMP: Objection. Outside the scope.

22 BY MR. GARCIA:

23 Q Do you have an understanding?

24 MR. MERVIS: Objection.

25 MS. DeCAMP: Objection.

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1 BY MR. GARCIA:

2 Q You can answer if you have an understanding.

3 A I don't have a particular understanding, no.

4 Q And if I were to ask you the same question with  
5 respect to retention of funds, would I get the  
6 same answer from you, if you don't have an  
7 understanding, or do you?

8 MS. DeCAMP: Object to the form.

9 A So the question here is in the context of the  
10 disbursement of payments; right?

11 BY MR. GARCIA:

12 Q Yes.

13 A And it sort of mischaracterizes the budgeting  
14 process, which is what I'm familiar with. And  
15 the budgeting process takes the revenues from  
16 the fiscal plan, sets a revenue envelope, and

17       that revenue envelope is used to establish the  
18       spending parameters that the government uses to  
19       set its budget that the board ultimately  
20       certifies.

21             There's no -- in the context of this  
22       question, there's no --

23             There's no way to differentiate between the  
24       different revenues that are used for those  
25       expenditures and, therefore, to know what funds

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1       are diverted, retained or reallocated or  
2       redirected.

3             The revenue envelope is just -- pulled from  
4       the fiscal plan revenue parameters. That's why  
5       it's hard for me to answer with more specificity  
6       for you.

7   Q   Thank you for your answer. That was not my  
8       question, but I appreciate your answer anyway.

9             I was referring, really, to your  
10       understanding of clawback or retention of funds  
11       by the -- in the context of this topic in the  
12       deposition notice. That's what I was referring  
13       to.

14 Do you have any understanding of that? what  
15 that means?

16 A I don't know a personal point of view of what  
17 that term implies, no.

18 Q So sitting here today, your testimony is that  
19 you do not have an understanding of what a  
20 clawback of funds means?

21 MS. DeCAMP: Objection.

22 MR. MERVIS: Objection.

23 A My testimony is that I don't have a particular  
24 distinct point of view on the topic.

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1 BY MR. GARCIA:

2 Q Have you heard the word "clawback" before in any  
3 context?

4 A I have.

5 THE WITNESS: Can we actually take a  
6 five-minute break? Is that possible?

7 MR. GARCIA: Sure. We're in the middle of  
8 a question. I would appreciate if you answer  
9 this question, and then we can go to the break.

10 MR. MERVIS: What is it?

11 MR. GARCIA: Can I have it read back.

12 (The requested text was read by the  
13 reporter.)

14 BY MR. GARCIA:

15 Q Before we take the five-minute break, you said,  
16 yes, you have. And can you tell me what you  
17 have -- what your understanding of "clawback"  
18 is? of a clawback?

19 MR. MERVIS: Objection.

20 BY MR. GARCIA:

21 Q You can answer.

22 A The clawback, I think it just relates to the  
23 conditionally allocable revenues that are in the  
24 fiscal plan. It's relating to those revenue  
25 streams.

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1 Q Again, can you explain for the record what you  
2 mean with respect to the conditional allocable  
3 funds with respect to the clawback? Can you  
4 explain it to me?

5 A So there are a series of revenues that are  
6 forecasted as part of the fiscal plan. And  
7 there they are of it revenue stream. There's a



8 revenue streams around the --

9 (Reporter request for clarification.)

10 A So you're asking what are the conditionally  
11 allocable revenues?

12 Q How do those relate to the clawback concept that  
13 you described before. That's my question.

14 A So the conditionally allocable revenues are the  
15 revenue streams that are forecasted in the  
16 fiscal plan that I believe are commonly referred  
17 to as the "clawback funds." And you asked what  
18 those specific revenues were, or did you have a  
19 different question?

20 Q I asked what your understanding was as the  
21 clawback referred to the conditionally allocated  
22 funds?

23 A So my understanding is it refers to those  
24 revenues in the fiscal plan. Those particular  
25 revenue streams.

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1 Q And are some of those revenues based on the  
2 discussion we had before -- and then we'll  
3 break -- related to some of the taxes that were  
4 in Acts 30 and 31, like cigarette tax, petroleum

5 tax, gasoline tax, and the rest?

6 A The revenues under Act 30 and 31, I do believe,  
7 are included as conditionally allocable revenues  
8 in the fiscal plan, yes.

9 Q So to that extent, they would have been clawback  
10 funds; correct?

11 A Yes. I believe that those fall into the  
12 category of --

13 Q Okay.

14 A -- clawback funds.

15 MR. GARCIA: We can take the five-minute  
16 break now. Sorry. I went on for a little  
17 longer, but we were in the middle of a topic.

18 Thank you.

19 THE VIDEOGRAPHER: We'll go off at 2:49.

20 (A recess was taken.

21 THE VIDEOGRAPHER: We are back on the  
22 record at 2:56.

23 MR. GARCIA: Okay. Can you put the  
24 Exhibit A to the subpoena back on the record,  
25 back on the ShareFile -- screen. Sorry.

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1 Yes, exhibit A.

2 BY MR. GARCIA:

3 Q Do you see a document mean on the screen?

4 A Yes, I do.

5 Q I want you to take a look at Topic Number 5,  
6 which is the last one that we haven't yet  
7 discussed. And that reads, while you read it to  
8 yourself, I quote it:

9 "The amounts of clawback funds disbursed  
10 for uses other than the payment of general  
11 obligation debt for each fiscal year from 2016,  
12 which I'm now modifying to 2018 to the present,  
13 including any efforts undertaken by the FOMB to  
14 evaluate the amounts of clawback funds to  
15 disburse for uses other than the payment of  
16 general obligation debt."

17 Do you see that?

18 A Yes.

19 Q In connection with that specific topic,  
20 Mr. Chepenik, did you meet with anybody at the  
21 FOMB, whether at the level of member, director,  
22 or staff, to prepare for this particular topic?

23 A In preparation for my deposition, not to the  
24 best of my knowledge, no.

25 Q Did you do anything to try to determine whether

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1 anybody at the FOMB would have been able to  
2 assist you in preparing for this topic? By  
3 that, I mean, members, the director, or staff?

4 A To the best of my recollection, no.

5 Q All right. I'll ask you, do you have any  
6 knowledge of whether the clawback funds as we  
7 identified them just prior to going into the  
8 break, have been used to pay GO debt service?

9 A From Fiscal '18 onward?

10 Q That's correct.

11 A I'm not aware of the clawback funds or any funds  
12 for that matter being used to pay GO debt  
13 service.

14 Q During that time period has any GO debt service  
15 been paid to your knowledge?

16 A The only GO debt service that I believe might  
17 have been paid would have been insured debt  
18 service.

19 Q When you say "insured debt service," what do you  
20 mean by that?

21 A So GO debt, that would have been wrapped by the  
22 monoline bond insurers, it is possible that that  
23 debt was paid.

24 Q Do you have any recollection of what that amount  
25 would have been?

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1 A I do not.

2 Q The payment?

3 A I do not have knowledge.

4 Q And do you have any knowledge as to when that  
5 payment may have been made?

6 A I do not have any direct knowledge. I imagine  
7 it would have been around the semiannual payment  
8 dates. Around -- summertime and in the  
9 wintertime. Either December, January, and June  
10 or July each year.

11 Q So every semester of every year?

12 A If it was paid, I imagine that would have been  
13 the case. But again, I'm not positive.

14 Q You're not positive whether they were paid?

15 A I just have no personal knowledge about those  
16 payments.

17 Q Okay. Do you know whether any claw-back funds  
18 were transferred back to HTA?

19 MR. MERVIS: Objection to the form.

20 BY MR. GARCIA:

21 Q You can answer.

22 A I think I mentioned earlier I'm not aware of any  
23 instance of any claw-back funds being used for  
24 any purpose other than that one instance in 2019  
25 that I mentioned to you at the outset.

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1 Q So that would include no -- you don't know  
2 whether any, any of those claw-back funds would  
3 have been transferred back to HTA?

4 MR. MERVIS: Objection.

5 A I am not aware of any instance of claw-back  
6 funds being used for any purpose other than that  
7 one special resolution in 2019.

8 Again, I think I explained this earlier, it  
9 sort of mischaracterizes the process, the  
10 budgeting process. The revenue envelope is set  
11 from revenues drawn from the fiscal plan. It  
12 doesn't distinguish in this budget year, for  
13 instance, that revenue letter does not diversity  
14 what funds are being used. It's a pool of cash,  
15 a pool of revenue that can be used to fund  
16 expenditures.

17 MR. GARCIA: I'm going to ask my colleague,

18 Mr. Cepeda, to bring one last document to the  
19 screen.

20 BY MR. GARCIA:

21 Q Do you recall that this morning you mentioned  
22 that you had signed a delegation in the PROMESA  
23 case at some point before you started to reap  
24 for this deposition; correct?

25 A Correct.

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1 Q All right.

2 MR. GARCIA: Can you put the document on  
3 the screen.

4 (Deposition Exhibit 7 was presented for  
5 identification.)

6 BY MR. GARCIA:

7 Q Do you see a document now on the screen?

8 A I do, yes.

9 Q It's been marked as Exhibit 7 for the  
10 deposition.

11 Have you seen this document before?

12 A I have, yes.

13 Q Is this the declaration that you were referring  
14 to in earlier testimony during the morning

15 session that you had given?

16 A It is, yes.

17 Q Okay. I want you to go to paragraph Number 4.

18 Do you see that paragraph?

19 A I do.

20 Q You can read it to yourself. I will quote the  
21 language for the record:

22 "I am familiar with the analysis made to  
23 arrive at the 1.67 billions figure in Exhibit K.  
24 Specifically, I reviewed the referenced statutes  
25 to understand the mathematical formulas

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1 described therein, and then applied those  
2 formulas to the revenue sources identified, to  
3 estimate how much those specific appropriations  
4 would have been in fiscal year '19. The  
5 \$1.67 billion figure for fiscal year '19  
6 referenced in Exhibit K does not include all  
7 revenues historically appropriate by the  
8 Commonwealth on an annual basis including to the  
9 Commonwealth's instrumentalities and does not  
10 include any of the revenues set forth in the HTA  
11 allocable revenue statutes or other claw-back



12 statutes with respect to CCDA and PRIFA."

13 Do you see that language?

14 A I do.

15 Q That is your declaration; correct?

16 A It is, yes.

17 Q Can you please explain to me what you mean by  
18 the third sentence.

19 MR. GARCIA: Mr. Cepeda, can you highlight  
20 it, the one that starts with:

21 "The \$1.67 billion figure."

22 BY MR. GARCIA:

23 Q Can you explain to me what you meant by that  
24 sentence in your declaration.

25 A As I recall, this was in relation to

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1 Commonwealth statutes that were -- the  
2 allocations within those statutes.

3 The appropriations were different than what  
4 historically had been appropriated, and I was  
5 asked to help calculate what that value would  
6 have been if PROMESA was not in effect, and the  
7 revenues appropriated had not been subject to  
8 the budgeting process under PROMESA.

9 Q Okay. When you say "subject would not have been  
10 subject to the budgeting process of PROMESA,"  
11 what do you mean?

12 A I mean, where the process under Section 202 of  
13 PROMESA, where the expenses are set in  
14 conformance with the revenue envelope for the  
15 government.

16 So where the oversight board sets out that  
17 revenue parameters drawn from the fiscal plan  
18 and then the government produces a budget within  
19 those parameters.

20 Q Okay. And specifically towards the end of that  
21 sentence, it says, and I quote:

22 "Does not include any of the revenues set  
23 forth in the HTA allocable revenue statutes or  
24 other claw-back statutes with respect to CCDA  
25 and PRIFA."

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1 What do you mean by that sentence or phrase  
2 in that sentence?

3 A I filed this declaration quite some time ago; so  
4 to the best of my recollection, this was  
5 referring to what was embedded within the

6 1.67 billion figure.

7 Q Again, when you say "does not include any of the  
8 revenues set forth in the HTA allocable revenue  
9 statutes," what do you mean by that?

10 A I mean that those amounts are not included in  
11 the 1.67 billion figure.

12 Q And why were not included in the \$1.67 billion  
13 figure?

14 A I do not recall.

15 Q This is your declaration, and it's dated  
16 April 28, '20; right?

17 A Yes. It was some time ago.

18 Q It's not that long ago.

19 You have no recollection of why you said  
20 that in your declaration, Mr. Chepenik?

21 MS. DeCAMP: Objection. Argumentative.

22 BY MR. GARCIA:

23 Q You can answer.

24 MS. DeCAMP: You can answer.

25 A I do not recall.

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1 BY MR. GARCIA:

2 Q I'm going to ask you to look at Exhibit K.

3 Exhibit K is titled "Schedule of Preempted  
4 statutes," Exhibit K to your declaration.

5 Can you tell me what that means, "schedule  
6 of preempted statutes"?

7 A To the best of my recollection, this refers to a  
8 series of statutes, Puerto Rico law-based  
9 statutes that are preempted by PROMESA.

10 Q Who gave you this list?

11 A I do not recall.

12 Q Is this the list that you compiled?

13 A I do not -- I do not recall.

14 Q So you do not recall whether you put this list  
15 together?

16 A I do not. I do not recall.

17 Q I asked you to go to page K3, under Roman  
18 Numeral II.

19 Do you see it?

20 A I do.

21 Q It states:

22 "Statutes appropriating Commonwealth  
23 revenues."

24 Do you see that?

25 A I do.

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1 Q All right. So what do you mean by

2 "appropriating Commonwealth revenues"?

3 MR. MERVIS: Objection to the form.

4 BY MR. GARCIA:

5 Q You can answer.

6 A So to the best of my recollection, this refers

7 to statutes that appropriated revenues

8 historically.

9 Q Okay. What do you mean? If you can explain it

10 to me, it's an exhibit used for your

11 declaration.

12 What you meant by "appropriating"?

13 MR. MERVIS: Same objection.

14 BY MR. GARCIA:

15 Q You can answer.

16 A I don't recall. Appropriating would have meant

17 the -- what's the best way to describe it?

18 Appropriating would have meant, you know,

19 the issuance of revenues.

20 Q Issuance of revenues? Is that what you said?

21 A Yeah, the issuance of revenues or the raising of

22 revenues.

23 Q Okay. All right.

24 So when you say "issuance of revenues or

25 raising the revenues," what do you mean by that?

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1 A So just under Puerto Rico statute, you can pass

2 a law that raises revenues --

3 Q Okay.

4 A -- use revenues.

5 Q So is that what we call the "revenue bill"?

6 MR. MERVIS: Objection to the form.

7 A I believe you could call it a "revenue bill."

8 Yes.

9 BY MR. GARCIA:

10 Q To your knowledge, is a revenue bill the same as

11 an appropriation bill?

12 MS. DeCAMP: Objection.

13 What topic do all these questions relate

14 to?

15 MR. GARCIA: Relate to questions, including

16 Question Number 6 and some others.

17 A A revenue bill is not always the same as an

18 appropriation bill. No.

19 BY MR. GARCIA:

20 Q So how are they different, in your

21 understanding?

22 A Well, a revenue bill is a bill that raises  
23 revenue and an appropriations bill is a bill  
24 that appropriates revenue.

25 Q What do you mean by "appropriates revenue"?

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1 A That appropriates spending of some form.  
2 Q Okay. So a revenue bill, in your understanding,  
3 is a bill that raises revenue; correct?  
4 A Typically that's correct, yes.  
5 Q And an appropriations bill is a bill that  
6 appropriates revenue to a given spending; is  
7 that correct?  
8 A Not necessarily, no.  
9 Q So for specific spending purposes; is that  
10 correct?  
11 A Not necessarily.  
12 Q Okay. Give me your understanding again, please.  
13 A For an appropriation bill?  
14 Q Yeah.  
15 A Yeah, an appropriation bill is generally an  
16 allocation of appropriations. It could be for a  
17 specific purpose or not. It's not -- doesn't  
18 necessarily need to be defined.

19 Q But an appropriation would be for something  
20 that's going to be spent; is that correct?  
21 A Typically an appropriation would be, yeah, for  
22 an appropriation.  
23 Q An appropriation would be an appropriation, but  
24 I still don't understand what you're trying to  
25 tell me.

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1 You just said, and I can have it read back,  
2 "an appropriation would be an appropriation,"  
3 but what does that mean?

4 A It depends on --

5 MR. MERVIS: Hold on. Objection to the  
6 form.

7 BY MR. GARCIA:

8 Q You can answer.

9 A It depends on the --

10 It depends on the statute. You can have  
11 very common if -- very commonly, you know,  
12 legislatures would pass an appropriation bill  
13 that, say, you know, for the general, you know,  
14 use and purpose of that government. It doesn't  
15 necessarily need to be for a specific purpose.



16 Q Okay. You see the first category under Roman  
17 Numeral II? You see it there?  
18 A I do, yes.  
19 Q That's HTA; correct?  
20 A It does, yes.  
21 Q Do you recall whether those three statutes --  
22 any of those three statutes mentioned there are  
23 Acts 30 or 31?  
24 A I do not recall.  
25 Q All right. Take a look at Number 2.

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1 You see the bracketed language at the end  
2 of the citation to the statute? Do you see  
3 that?  
4 A I do.  
5 Q It says:  
6 "Gas oil, diesel oil, and petroleum  
7 products."  
8 Right?  
9 A It does.  
10 Q Does that refresh your recollection as to that  
11 may be one of the statutes we discussed earlier  
12 today?

13 MR. MERVIS: Objection to the form.

14 A It's possible that that's referring to Act 31.

15 I just -- I'll not sure. I didn't look back at  
16 that prior to the deposition.

17 BY MR. GARCIA:

18 Q You see Number 3?

19 A I do.

20 Q And you see the bracket language, "cigarette  
21 tax"?

22 A I do.

23 Q Does that refresh your recollection as to  
24 whether it's part of 30 or 31?

25 A It does not.

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1 As I said previously, it could mean that  
2 local Puerto Rico act, the reference, the  
3 statutory reference could mean Act 30, but I  
4 don't know for certain. I did not review this  
5 in preparation for my declaration or my  
6 deposition.

7 Q Then okay.

8 Number 1, take a look at the bracketed  
9 language at the end: Motor Vehicle License Fees.

10 Do you see that?

11 A I do.

12 Q Does that refresh your recollection as to  
13 whether that would be Act 30 or 31?

14 MR. MERVIS: Objection to the form.

15 BY MR. GARCIA:

16 Q You can answer.

17 A It does not.

18 Q It does not.

19 So when we were talking earlier about motor  
20 vehicle license fees in the context of Act 30,  
21 you remember that conversation we had?

22 A I do. I just don't know whether these statutory  
23 references refer to Act 30 or 31 specifically or  
24 in this case under Number 1, Act 9.

25 I don't recall because I did not review

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1 this declaration in preparation for my  
2 deposition.

3 Q Mr. Chepenik, during any of the breaks either  
4 this morning or this afternoon, did you speak  
5 with your counsel about the testimony that we  
6 were discussing?

7 MS. DeCAMP: That's a "Yes" or "No"

8 question.

9 A Yes.

10 BY MR. GARCIA:

11 Q And did you speak with counsel for the FOMB?

12 MR. MERVIS: Objection to the form.

13 BY MR. GARCIA:

14 Q Did you speak with counsel of the FOMB?

15 Antoinette?

16 MS. DeCAMP: You can answer "Yes" or "No."

17 "Yes" or "No."

18 A Yes.

19 BY MR. GARCIA:

20 Q Is counsel to the FOMB your counsel?

21 MR. MERVIS: Objection to the form.

22 MS. DeCAMP: Objection to the form.

23 BY MR. GARCIA:

24 Q Is counsel for the FOMB your counsel?

25 MS. DeCAMP: You can answer if you know.

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1 A I do not recall.

2 BY MR. GARCIA:

3 Q You do not recall.

4           Who is your counsel for purposes of this  
5       deposition today?

6           MS. DeCAMP: Objection. We answered these  
7       questions at the start.

8           MR. GARCIA: I'm trying to refresh his  
9       recollection because I don't think he remembers.

10    BY MR. GARCIA:

11    Q    Can you answer the question.

12    A    So my counsel, as an affiliate of EY, is  
13       Ms. DeCamp.

14    Q    All right.

15    A    My understanding -- let me finish.

16           My understanding is there's a stipulation  
17       agreement as it relates to Mr. Mervis and  
18       Proskauer as well. I've not seen that  
19       stipulation; so I'm not entirely clear about  
20       that component.

21    Q    But my question to you is very simple. For  
22       purposes of this deposition today, is Mr. Mervis  
23       your counsel?

24           MR. MERVIS: Object to the form.

25

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1 BY MR. GARCIA:

2 Q You can answer.

3 A I --

4 Q It's a "Yes" or "No" question.

5 MR. MERVIS: No, it's not. Object to the  
6 form.

7 A I cannot answer that question with certainty.

8 BY MR. GARCIA:

9 Q Why can't you answer with certainty?

10 MS. DeCAMP: Objection.

11 You can answer.

12 BY MR. GARCIA:

13 Q I'm trying to --

14 Yeah, you can answer.

15 A I have not seen the stipulation agreement that  
16 the parties agreed to in connection with this  
17 deposition.

18 Q It doesn't have -- my question doesn't have  
19 anything to do with the stipulation agreement,  
20 Mr. Chepenik.

21 My question is simply a question of fact  
22 whether for purposes of this deposition today  
23 Mr. Mervis was acting as your counsel?

24 MR. MERVIS: I object to the form of the  
25 question.

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1 BY MR. GARCIA:

2 Q You can answer.

3 A I unfortunately cannot give you a yes or no  
4 answer without consulting with my counsel.

5 Q Can you please --

6 We're going to go off the record, and  
7 you're going to consult with your counsel,  
8 Antoinette DeCamp, so that you can answer my  
9 question.

10 Okay?

11 Let's take a two-minute break?

12 MS. DeCAMP: Can I ask you a question.

13 So you want him to consult with me and then  
14 to relay the results of a privileged  
15 consultation on the record in this deposition?

16 MR. GARCIA: No. What I'm asking him is  
17 whether he understand --

18 He just said in order to answer my  
19 question, he needs to consult with you. And the  
20 question is whether Mr. Mervis was his counsel  
21 for purposes of this deposition. That's the  
22 question.

23 I don't understand that to be a privileged  
24 question. I'm only asking.

25 MR. MERVIS: Why does it matter?

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1 MR. GARCIA: An issue of fact whether  
2 Mr. Mervis is his counsel for the deposition.

3 MR. MERVIS: But that's the problem. It is  
4 not an issue of fact; it's an issue of law. Why  
5 does it matter who he thinks the lawyer is?

6 BY MR. GARCIA:

7 Q Do you need to consult?

8 MR. GARCIA: I'm not going to engage in  
9 debate, Michael.

10 MR. MERVIS: You're entitled not to. It  
11 doesn't make any sense.

12 MR. GARCIA: It doesn't to you. I'm not  
13 going to engage in debate with you.

14 BY MR. GARCIA:

15 Q Do you need to consult with your counsel,  
16 Ms. DeCamp?

17 MS. DeCAMP: Let's consult, Adam.

18 MR. GARCIA: All right. Two minutes to  
19 consult.



20 MR. MERVIS: It may take more than two  
21 minutes.

22 MR. GARCIA: I don't think it's --

23 MR. MERVIS: -- the witness and Ms. DeCamp;  
24 right?

25 MS. DeCAMP: He said he may need to consult

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1 with his counsel. You can't put a time limit on  
2 that. Thank you.

3 MR. GARCIA: Justin --

4 THE VIDEOGRAPHER: If we all agree, I will  
5 go off the record at 3:19.

6 (A recess was taken.)

7 THE VIDEOGRAPHER: Back on the record at  
8 3:23.

9 BY MR. GARCIA:

10 Q All right. So, Mr. Chepenik, I'm going to ask  
11 you whether during the morning and the afternoon  
12 session, right before the one break we had now,  
13 whether you met or discussed anything with  
14 Antoinette DeCamp during any one of the breaks  
15 outside from the last one?

16 MS. DeCAMP: It's a "Yes" or "No."

17 MR. MERVIS: Can you say that -- I don't  
18 understand.

19 Objection to form.

20 MS. DeCAMP: It's a "Yes" or "No" question.

21 A Yes.

22 BY MR. GARCIA:

23 Q You did. All right.

24 And I'm going to ask you now, what was the  
25 subject of those discussions?

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1 MS. DeCAMP: I mean, I am going to object.

2 What is the --

3 I do not want him to get into any  
4 privileged conversations that he had with me  
5 during the break.

6 MR. GARCIA: Ms. DeCamp, as you know, the  
7 witness was under oath.

8 MS. DeCAMP: Correct.

9 MR. GARCIA: He was in the middle of a  
10 deposition.

11 MS. DeCAMP: Correct.

12 MR. GARCIA: Whatever he discussed with  
13 anybody during the break is not a privileged

14 conversation, especially since he's under oath.

15 So I'm entitled. I am entitled for him to  
16 tell me what he discussed with you during any  
17 break in the middle of the deposition while he  
18 was under oath.

19 That's my question.

20 MS. DeCAMP: I don't agree with that,  
21 particularly in the context of a 30(b)(6)  
22 deposition where you are not -- you're asking  
23 for the collective testimony of Ernst~& Young,  
24 which can come from his personal knowledge or  
25 the collective knowledge of anybody else that

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1 has knowledge about Ernst & Young.

2 I do not agree that if I --

3 If I permit him to answer the question, I  
4 want your stipulation that this is not a waiver  
5 of any privilege.

6 MR. GARCIA: Well, I disagree with you as  
7 to whether the conversation he may have had with  
8 you during the break is a privileged  
9 conversation.

10 I do not agree with you and your

11 understanding of what the rules are for purposes  
12 of a witness who is under oath in a deposition  
13 in the middle of the deposition. So I don't  
14 agree with you on that. Okay?

15 Because I don't agree with you on that, I  
16 cannot stipulate to the issue because I don't  
17 think there is any privilege to be waived during  
18 a discussion with the witness during a break in  
19 the deposition.

20 Are you going to instruct him not to  
21 answer?

22 MS. DeCAMP: I'm going to instruct him not  
23 to answer as to any details of what we may or  
24 may not have discussed during the break.

25 You can discuss if there is a way to answer

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1 the question at a high level, similar to what  
2 would be in a privilege log, which is basically  
3 who you talked to and the 30,000-foot-level  
4 subject, you can disclose that.

5 MR. GARCIA: Again, I don't agree with your  
6 understanding of the privilege, but I will take  
7 the answer, reserving all my rights.

8 BY MR. GARCIA:

9 Q Mr. Chepenik, can you answer the question.

10 A What is the specific question.

11 Q The question is whether during any of the breaks  
12 during the deposition while you were under oath  
13 you had any discussion with Ms. DeCamp.

14 MR. MERVIS: Didn't he already answer that?

15 A Yes.

16 BY MR. GARCIA:

17 Q Yes.

18 And the question is what were those  
19 discussions about?

20 MR. MERVIS: So let me just make an  
21 objection.

22 To the extent that Proskauer attorneys were  
23 involved in communications during breaks with  
24 the witness and Ms. DeCamp, our view is that  
25 those conversations are immune from discovery

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1 because they constitute the board's work  
2 product.

3 I can't exactly instruct the witness not to  
4 answer, but I would ask Ms. DeCamp to instruct

5 him not to answer.

6 MS. DeCAMP: Excuse me. Given that  
7 Proskauer has an interest in preserving its own  
8 privilege, and in order to not waive any  
9 privilege or protection that might be asserted  
10 by Proskauer, I will instruct you, Adam, not to  
11 answer questions about the subjects of what we  
12 discussed during any breaks.

13 MR. GARCIA: Let me state for the record  
14 that I disagree with Ms. DeCamp's interpretation  
15 of the privilege of discussions during breaks.

16 But with respect to the objection that was  
17 raised by Mr. Mervis, the objection is even  
18 stronger. Okay?

19 Mr. Mervis was not the attorney defending  
20 during the deposition, and I don't believe that  
21 the privilege or even work product attaches in  
22 the way that Mr. Mervis is mentioning for the  
23 record.

24 So I will reserve all rights with respect  
25 to recalling the witness to ask any particular

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1 questions while he was under oath in the middle

2 of testimony, sometimes in topics that were  
3 continuing on after the break, conversations  
4 that we had with either Ms. DeCamp or  
5 Mr. Mervis.

6 So again, I'm asking you, Ms. DeCamp,  
7 you're instructing him not to answer my  
8 question?

9 MS. DeCAMP: Correct.

10 BY MR. GARCIA:

11 Q Are you going to refuse to answer my question  
12 based on the instruction given by your counsel?

13 A Are you directing that question to me?

14 Q Yes.

15 A I cannot answer that question.

16 Q You cannot what?

17 MS. DeCAMP: I think he was answering your  
18 prior question.

19 So could you repeat --

20 Adam, I think Mr. Garcia's question to you  
21 was are you going to follow my instruction to  
22 you not to answer the question?

23 A Yes, I'm going to follow the advice of counsel.

24 MR. GARCIA: Again, I will reserve all  
25 rights. That will include possibly recalling

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1 the witness for further testimony on the issue  
2 of whatever discussions he may have had with  
3 either of you during the breaks while he was  
4 under oath and being questioned about specific  
5 topics in the deposition.

6 I personally do not have any further  
7 questions, and with that --

8 MR. MERVIS: Arturo, just so we're clear, I  
9 note your reservation of rights. The board  
10 reserves its right. If you have authority to  
11 support your position, you should provide us  
12 with it during a meet-and-confer, if we're not  
13 able to resolve it you can make a motion.

14 MR. GARCIA: Whether we have to, we'll meet  
15 and confer on that. At this moment, I'm not  
16 going to engage in --

17 MR. MERVIS: I wasn't asking you to, but  
18 you made a speech; so I made a speech back.

19 MR. GARCIA: All right. So anyway, at this  
20 moment, I don't have any further questions. I  
21 am going to pass the baton onto my colleague  
22 from Schulte, who represents the collateral  
23 monitor here, who may have other questions of



24 the witness.

25 Taleah?

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1 MS. JENNINGS: This is Taleah Jennings.

2 Thank you, Arturo. I do have some

3 questions.

4 CROSS-EXAMINATION,

5 QUESTIONS BY TALEAH \_ JENNINGS:

6 BY MS. JENNINGS:

7 Q Good afternoon, Mr. Chepenik.

8 (A discussion was held off the record to  
9 correct technical issues.)

10 Q Mr. Chepenik, since you've been working at EY  
11 with the FOMB, have you had direct contact with  
12 any members of the oversight board?

13 A In connection with my deposition?

14 Q No. Just period.

15 A Yes, I have.

16 Q Who?

17 A I can name them, but all of the board members.

18 Q And can you estimate about how frequently you've  
19 spoken to anyone on the oversight board? any  
20 members of the oversight board? Is it on a

21 daily basis? Is it on a weekly basis?

22 MR. MERVIS: Sorry. Just note my objection  
23 to the form.

24 A I would say not in connection with this  
25 deposition preparation. Just in general in my

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1 role with EY, I have, I would say, interactions  
2 with the board members on a weekly basis.

3 BY MS. JENNINGS:

4 Q Anyone in particular, any particular members  
5 that you meet with more regularly than others or  
6 interact with more regularly than others?

7 A From the board members themselves, I wouldn't  
8 say that I meet with one board member more  
9 frequently than others.

10 If -- if you mean the board staff, then I  
11 would say I certainly meet with the executive  
12 director Natalie -- or speak with the executive  
13 director Natalie Jaresko on a more frequent  
14 basis.

15 Q When's the last time you spoke with Ms. Jaresko?

16 A You mean just in general?

17 Q Period. Last time you spoke with her.

18 A Yesterday.

19 Q Before that?

20 A I speak with executive director on multiple  
21 times a day, typically.

22 Q I see. Have you ever spoken with Ms. Jaresko at  
23 any point in time regarding whether or not the  
24 Commonwealth had a balanced budget for fiscal  
25 years 2018 through the present?

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1 MR. MERVIS: Note my objection to the form.

2 A To the best of my recollection, we have never  
3 had that specific conversation.

4 BY MS. JENNINGS:

5 Q Do you know what the FOMB's knowledge is  
6 regarding whether or not the Commonwealth had a  
7 balanced budget for the fiscal years 2018  
8 through 2020?

9 MR. MERVIS: Object to the form.

10 A I don't have any particular knowledge about what  
11 their views may or may not be as it pertains to  
12 being a balanced budget or not.

13 BY MS. JENNINGS:

14 Q I'm not necessarily saying their views. My word

15 was about their "knowledge."

16 A Provide the same answer. I'm not familiar with  
17 what their knowledge may or may not be.

18 Q And you said that with regard to the testimony  
19 you provided, EY has no knowledge about whether  
20 the Commonwealth had a balanced budget for  
21 fiscal years 2016 and 2017; correct?

22 A Correct. EY was not engaged, and the oversight  
23 board did not exist.

24 Q And so EY is not best situated to answer  
25 questions regarding whether or not the

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1 Commonwealth had a balanced budget during those  
2 years; correct?

3 MR. MERVIS: Object to the form.

4 MS. DeCAMP: Objection.

5 THE WITNESS: Can I answer that,  
6 Antoinette?

7 MS. DeCAMP: You can answer.

8 BY MS. JENNINGS:

9 Q Yes.

10 A Can you repeat the question one more time?

11 Q Yes.

12 Ernst & Young is not best situated to  
13 answer questions regarding whether or not the  
14 Commonwealth had a balanced budget during  
15 2016 -- fiscal years 2016 and 2017; correct?

16 MR. MERVIS: Object to the form.

17 A I would say EY does not have a point of view or  
18 a perspective on whether the budgets were  
19 balanced in those years.

20 BY MS. JENNINGS:

21 Q So is your answer to my question --

22 What is your answer to my question?

23 MR. MERVIS: Object to the form.

24 A I do not believe we have knowledge of whether  
25 those budgets were balanced or not.

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1 BY MS. JENNINGS:

2 Q And do you know whether the FOMB has knowledge  
3 about whether the budgets were balanced for  
4 those fiscal years or not?

5 MS. DeCAMP: Objection.

6 You can answer.

7 A The FOMB was not in existence at that time; so

8 I'm not --

9 BY MS. JENNINGS:

10 Q That's not my question.

11 My question is --

12 MR. MERVIS: Hold on, Taleah. You cut him  
13 off. You've got to let him finish.

14 BY MS. JENNINGS:

15 Q I thought you answered my question. Go ahead.

16 A The FOMB was not in existence at that time; so  
17 I'm unaware of what knowledge they have as it  
18 relates to those budgets being balanced in 2016  
19 or 2017.

20 Q That wasn't the answer to my question; so let me  
21 ask you the question again.

22 Do you know whether the FOMB has knowledge,  
23 not whether they existed at the time, but  
24 whether they have knowledge about whether the  
25 budgets were balanced for the Commonwealth for

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1 fiscal years 2016 and 2017? Do you know if the  
2 FOMB has knowledge of that?

3 MS. DeCAMP: Objection.

4 You can answer.

5 A I -- to the best of my knowledge, I do not have

6 knowledge about whether they have knowledge

7 about --

8 BY MS. JENNINGS:

9 Q Thank you. We're understanding each other now.

10 MR. MERVIS: There's a lot of knowledge

11 going on.

12 BY MS. JENNINGS:

13 Q You testified that you met with Proskauer in

14 preparation for your testimony today.

15 Did Proskauer attorneys provide you with

16 any information to help you testify as to

17 whether or not the Commonwealth had a balanced

18 budget for fiscal years 2018 through the

19 present. The answer is --

20 First question is "Yes" or "No" question.

21 Did they provide you with any information?

22 A To the best of my recollection, no.

23 Q And did anyone --

24 Are you aware --

25 Did anyone from Proskauer inform you that

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1 Ms. Jaresko is the most knowledgeable person on

2 the oversight board to answer questions about

3 whether or not the Commonwealth had a balanced  
4 budget for fiscal years 2016 through the  
5 present?

6 MR. MERVIS: Sorry. Can I ask the reporter  
7 to read that question back.

8 (The requested text was read by the  
9 reporter.)

10 MR. MERVIS: Okay. So I think that that  
11 could invade attorney work product. But if  
12 you'll agree, Taleah, that it's not -- that  
13 there's no waiver beyond that question, I'm  
14 happy to have him answer just to speed this up  
15 and move it along.

16 MS. JENNINGS: I think for now, with regard  
17 to that specific question, I can agree to that.

18 MR. MERVIS: Okay.

19 A To the best of my recollection, no, nobody  
20 stated that to me.

21 BY MS. JENNINGS:

22 Q What is the FOMB's knowledge regarding any  
23 efforts undertaken by the FOMB to determine  
24 whether or not the Commonwealth had a balanced  
25 budget for fiscal years 2016 through 2020?



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1 MS. DeCAMP: Objection.

2 You can answer.

3 A I can only speak to what EY's knowledge is in  
4 preparation of the budget each year. I am  
5 unaware of what knowledge the FOMB has.

6 BY MS. JENNINGS:

7 Q That's because you haven't spoken to anyone at  
8 the FOMB at any time, not even in connection  
9 with preparation for this deposition, but at any  
10 time regarding what efforts were undertaken by  
11 the FOMB to determine whether or not the  
12 Commonwealth had a balanced budget for fiscal  
13 years 2016 through 2020; is that correct?

14 MS. DeCAMP: Objection.

15 You can answer.

16 A Well, certainly I think there's a  
17 differentiation between fiscal years '16 and '17  
18 versus the other fiscal years since the board  
19 has been in existence and been responsible for  
20 certifying budgets each year.

21 But I did not speak -- I did not speak with  
22 the oversight board about it being a balanced  
23 budget. That's not really how the budgeting  
24 process works under PROMESA.

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1 BY MS. JENNINGS:

2 Q When you say there's a differentiation between  
3 the fiscal years '16, '17, and the others,  
4 that's not true with regard to my question;  
5 right?

6 My question was have you spoken to anyone  
7 at the FOMB regarding what efforts were  
8 undertaken by the FOMB to determine whether or  
9 not the Commonwealth had a balanced budget for  
10 fiscal years 2016 through 2020?

11 MR. MERVIS: So --

12 BY MS. JENNINGS:

13 Q Let me finish my question.

14 MR. MERVIS: I jumped the gun. I  
15 apologize.

16 BY MS. JENNINGS:

17 Q If I'm understanding your answer to the previous  
18 question correctly, the answer to that is no,  
19 you have not spoken to anyone at the FOMB about  
20 that?

21 MR. MERVIS: Object to the form.

22 BY MS. JENNINGS:

23 Q You can answer.

24 A To the best of my recollection, no. I have not  
25 spoken to them about that.

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1 Q And during your meetings with Proskauer in  
2 connection with preparing to testify today, did  
3 they provide you any information relating to any  
4 efforts undertaken by the oversight board to  
5 determine whether or not the Commonwealth had a  
6 balanced budget for each fiscal year from 2016  
7 through the present? Did they provide you any  
8 information regarding that topic?

9 MR. MERVIS: Note my objection to the form.

10 A To the best of my recollection, no.

11 BY MR. MERVIS:

12 Q And did anyone from Proskauer inform you that  
13 Ms. Jaresko was the most knowledgeable person at  
14 the oversight board to answer questions  
15 regarding that topic?

16 MS. DeCAMP: Objection. You can answer.

17 MR. MERVIS: So I guess I'm not sure that's  
18 different than the one you asked before, but in

19 any event, I'm okay with him answering that  
20 question, notwithstanding that it could  
21 potentially invade work product if you'll agree  
22 that it's not a waiver as to any other question  
23 or answer.

24 MS. JENNINGS: With regard to this specific  
25 question, yes.

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1 MR. MERVIS: Okay.

2 MS. JENNINGS: I'm not trying to invade the  
3 privilege or be sneaky about it.

4 MR. MERVIS: No, no. Until he answers I  
5 don't know. I don't want to have to go offline  
6 and confer with him. Maybe the reporter could  
7 just read it back.

8 (The requested text was read by the  
9 reporter.)

10 THE WITNESS: Can I answer?

11 BY MR. MERVIS:

12 Q Yes.

13 A To the best of my recollection, no.

14 Q What is the FOMB's knowledge about whether or  
15 not available revenues of the Commonwealth were

16 insufficient to meet the appropriations for each  
17 fiscal year 2018 through the present?

18 A I'm unaware of what the FOMB's knowledge is on  
19 that topic.

20 Q That's because you have not spoken to anyone at  
21 the FOMB about that topic at any time; correct?

22 A Can you actually reread not the last question  
23 but the second-to-last question?

24 Q Sure.

25 MS. JENNINGS: Ms. Court Reporter, can you

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1 please read that.

2 (The requested text was read by the  
3 reporter.)

4 BY MS. JENNINGS:

5 Q And the answer?

6 (The requested text was read by the  
7 reporter.)

8 Q And then my next question was: And that's  
9 because you have not spoken to anyone at the  
10 FOMB about that topic at any time; is that  
11 correct?

12 MS. DeCAMP: Objection.

13                   You can answer.

14    A    I do not recall having a recent discussion with  
15           anyone around available revenues. But the  
16           question reminded me of what I had answered  
17           earlier around 2019. And the special resolution  
18           that was certified by the oversight board. It's  
19           possible that some discussions happened in 2019,  
20           but I do not recall the details of those  
21           conversations.

22    BY MS. JENNINGS:

23    Q    And you've provided several hours of testimony  
24           today already. None of your testimony was  
25           reliant upon what you just identified may have

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1           been discussed in 2019; is that right?

2    A    That's correct.

3    Q    And with regard to that, this same issue whether  
4           or not revenues were insufficient to meet the  
5           appropriations for these fiscal years, you have  
6           no knowledge --

7                   (Reporter request for clarification.)

8    Q    With regard -- I should have the topics in front  
9           of me or in front of you --

10 But with regard to the topic that we're on  
11 now, whether or not available revenues of the  
12 Commonwealth were insufficient to meet the  
13 appropriations for each fiscal year from 2016  
14 through the present, you have no knowledge on  
15 that issue with regard to fiscal year 2016 or  
16 2017; correct.

17 When I say "you," I mean, as the EY  
18 30(b)(6) witness?

19 A That is correct.

20 Q You didn't do anything to try to find that  
21 information out; correct?

22 A In preparation for the deposition, I did not.

23 Q And with regard to this same topic, whether or  
24 not available revenues of the Commonwealth were  
25 insufficient to meet the appropriations for each

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1 fiscal year, limit it to 2018 through the  
2 present, did anyone from Proskauer provide you  
3 with any information to help you prepare to  
4 testify on that topic today?

5 MR. MERVIS: Note my objection to the form.

6 A To the best of my recollection, no.

7 BY MS. JENNINGS:

8 Q And are you aware that Proskauer has  
9 represented -- withdrawn.

10 Did Proskauer or any Proskauer attorneys  
11 represent -- inform you that Ms. Jaresko is the  
12 individual the most knowledgeable person at the  
13 oversight board to answer questions regarding  
14 whether or not available revenues of the  
15 Commonwealth were insufficient to meet the  
16 appropriations for each fiscal year from 2016  
17 through the present?

18 MR. MERVIS: I have a concern that the  
19 answer to that question might invade the  
20 oversight board's work product. But, Taleah, if  
21 you will agree that in allowing him to answer  
22 that question there is not a waiver beyond the  
23 question and the answer, then I'll let him  
24 answer.

25 MS. JENNINGS: Can I just understand what

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1 the work product issue is? Because I may be  
2 able to dispel that, but I just don't  
3 understand.



4 MR. MERVIS: The short answer is, look,  
5 first of all, I have no idea whether anybody at  
6 Proskauer told him that. I know I didn't but  
7 others might be.

8 MS. JENNINGS: All right.

9 MR. MERVIS: Secondly, if someone did, I  
10 don't know the context; right?

11 So without knowing the context of the  
12 conversation, I can't say whether it's a work  
13 product issue or just like a scheduling issue or  
14 any kind of issue. I don't know.

15 So what I'm trying to avoid is taking the  
16 time to go off the record to consult with the  
17 witness about something that may not even be an  
18 issue.

19 So that's the best I can give you.

20 MS. JENNINGS: So without -- yes, I'm not  
21 trying to get into work product by answering  
22 this question. I will not --

23 We will not take the position that you're  
24 waiving any privilege.

25

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1 BY MS. JENNINGS:

2 Q But my question is did any Proskauer attorneys  
3 during your preparation sessions inform you that  
4 Ms. Jaresko is the most knowledgeable person at  
5 the oversight board to answer questions  
6 regarding whether or not available revenues of  
7 the Commonwealth were insufficient to meet the  
8 appropriations for each fiscal year from 2016  
9 through the present?

10 THE WITNESS: I can answer?

11 MR. MERVIS: Yeah.

12 BY MS. JENNINGS:

13 Q Yes.

14 MS. DeCAMP: You can answer.

15 A To the best of my recollection, no, nobody  
16 mentioned that to me. Nobody at Proskauer.

17 BY MS. JENNINGS:

18 Q And other than anyone at Proskauer, did anyone  
19 of mention that to you?

20 A To the best of my recollection, no, no one has  
21 ever mentioned that to me.

22 Q What is the FOMB's knowledge regarding any  
23 efforts undertaken by the FOMB to determine  
24 whether available revenues of --

25 That's withdrawn, actually.

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1 MR. MERVIS: I was going to say I've not  
2 heard that acronym said that way. I don't know  
3 that I look it.

4 MS. JENNINGS: I may have another slip, but  
5 let's keep going.

6 BY MS. JENNINGS:

7 Q What is the FOMB's knowledge about whether or  
8 not any revenues of the Commonwealth were  
9 diverted, retained, reallocated, or redirected  
10 in order for there to be sufficient available  
11 revenue to meet the appropriations made for each  
12 fiscal year from 2016 through the present?

13 MS. DeCAMP: Objection.

14 You can answer.

15 A I'm not aware of what the knowledge of the FOMB  
16 might be on that matter.

17 BY MS. JENNINGS:

18 Q And you did not try to speak to anyone at the  
19 FOMB to gain that understanding; correct? to  
20 gain their understanding?

21 A That's correct.

22 Q Did any Proskauer attorney during your

23 preparations provide you with any information to  
24 help you prepare to help you testify about this  
25 topic?

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1 MR. MERVIS: Note my objection to the form.

2 A Not that I recall.

3 BY MS. JENNINGS:

4 Q How many prep sessions did you have where  
5 Proskauer participated for this deposition?

6 A I recall three.

7 Q And how many prep sessions did you have in full,  
8 in total, for this deposition?

9 A Between I would say ten and twelve.

10 Q And during those --

11 During the sessions where Proskauer was in  
12 attendance, did they provide you with any  
13 information? I know I asked about specific  
14 areas, but did they provide you with any  
15 information during those prep sessions?

16 MR. MERVIS: Sorry. Objection to form.

17 A Generally, those sessions were general  
18 deposition preparation since I had not -- I had  
19 not been deposed prior to this experience. And

20 trying to help me better understand the  
21 questions that were being -- that were being  
22 asked of EY to respond to because I felt they  
23 needed some additional clarity to be able to  
24 provide specific answers to those questions.  
25

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1 BY MS. JENNINGS:

2 Q Did they provide you some clarity with regard to  
3 what the questions meant?

4 A They tried, but I wouldn't say it was  
5 information that was provided to me. I had the  
6 same question that I asked Mr. Garcia earlier  
7 about whether, you know, it being a balanced  
8 budget if we thought that they came out on an  
9 accrual or cash basis. Technical sort of  
10 clarifications like that.

11 MS. JENNINGS: Michael, that's not a good  
12 look for you.

13 MR. MERVIS: Trying to make sense of  
14 what's --

15 BY MS. JENNINGS:

16 Q I'll just ask was there anything else? Were

17       there any other clarifications that they tried  
18       to help you with?

19   A   Not in particular that I recall. This was --  
20       the subpoena came to EY in connection with the  
21       work that EY conducted so I'm familiar already  
22       generally speaking with EY's work product on  
23       that.

24             For me it was refreshing my recollection  
25       around our team's work in support of the

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1       oversight board as opposed to Proskauer  
2       informing me or providing information to me in  
3       connection with responses.  
4   Q   So they did not provide you with any information  
5       other than what you just discussed regarding  
6       clarification in connection with preparing to  
7       testify today?

8   A   Not -- nothing of consequence, that I can  
9       recall.

10   Q   I was going to say maybe I should be more  
11       specific: With regard to the topics in which  
12       you are testifying today?

13   A   Nothing in particular comes to mind.

14 Q And did anyone from Proskauer provide you  
15 information regarding the stipulation agreement  
16 that you were referring to earlier?

17 MR. MERVIS: I ask on that one that the  
18 answer be, at least to that one, be "Yes" or  
19 "No."

20 A No.

21 BY MS. JENNINGS:

22 Q What is the FOMB's knowledge about any efforts  
23 undertaken by the FOMB to evaluate the amounts  
24 of revenues to divert, retain, reallocate, or  
25 redirect?

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1 MS. DeCAMP: Objection.

2 You can answer.

3 A I am not aware of the FOMB's knowledge on that  
4 topic. I also don't know whether, you know,  
5 they would describe -- use the terms that you  
6 use to begin with.

7 BY MS. JENNINGS:

8 Q You don't know one way or the other?

9 A I'm not aware of their knowledge.

10 Q And that's because you haven't spoken to anyone

11 at the FOMB about that topic; correct?

12 I don't mean just in connection with your  
13 preparation, but period.

14 A Not that I can recall.

15 MR. MERVIS: Sorry, can I take a 30-second  
16 break?

17 MS. JENNINGS: Sure.

18 THE REPORTER: Are we going off the record?

19 MS. JENNINGS: It looks like maybe not.

20 MR. MERVIS: I apologize. I was dealing  
21 with a filing deadline on something else.

22 MS. JENNINGS: Let me refresh my  
23 recollection of where we were.

24 BY MS. JENNINGS:

25 Q Mr. Chepenik, you did not do anything to try to

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1 find out what the FOMB's knowledge is with  
2 regard to any efforts undertaken by them to  
3 evaluate the amounts of revenues to divert,  
4 retain, reallocate, or redirect; is that  
5 correct?

6 A To the best of my recollection, that is correct.

7 I did not undertake any efforts on that topic.



8 Q And do you know whether the FOMB has undertaken  
9 any efforts to evaluate the amounts of revenues  
10 to divert, retain, reallocate, or redirect?

11 MS. DeCAMP: Objection.

12 You can answer.

13 A To the best of my recollection, I'm not aware.

14 BY MS. JENNINGS:

15 Q Well, you're not aware of whether they have or  
16 they haven't, or you don't remember whether they  
17 have or they haven't?

18 A To the best of my recollection, I'm not aware of  
19 whether they have or have not.

20 Q Did you ever know? I'm confused by the "to the  
21 best of my recollection."

22 A To the best of my recollection, I am not -- I'm  
23 not aware. Nothing comes to mind, if that's  
24 what you're asking.

25 Q That's what I was asking.

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1 A My recollection, as far as I recall, yeah.

2 Q To your knowledge, were from any efforts  
3 undertaken by the FOMB. I'm going back a topic,  
4 to determine whether or not the available

5 revenues of the Commonwealth were insufficient  
6 to meet the appropriations in fiscal years 2018  
7 through the present?

8 A I'm sorry. Can you just have -- can the  
9 reporter read back the question one more time.

10 Q I think I can repeat it.

11 A Okay.

12 Q Are you aware of any efforts undertaken -- by  
13 "you," I mean in your capacity as the 30(b)(6)  
14 witness today.

15 Are you aware of any efforts undertaken by  
16 FOMB to determine whether or not the available  
17 revenues of the Commonwealth were insufficient  
18 to meet the appropriations in fiscal years 2018  
19 through the present?

20 MS. DeCAMP: Objection.

21 But you can answer.

22 A I believe I'm aware of one instance in which  
23 that efforts might have been undertaken.

24 BY MS. JENNINGS:

25 Q That's the one we talked about?

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1 A Correct. In 2019.

2 Q And other than that, are you aware of any other  
3 efforts undertaken by the FOMB?

4 A Not that I can recall.

5 Q And do you know if any other efforts were  
6 undertaken by the FOMB, or are you just don't  
7 know one way or the other?

8 A Not that I'm aware of.

9 Q You're not aware one way or the other whether  
10 there were additional efforts?

11 A I'm not aware whether there were or not, if  
12 that's what you're asking.

13 Q Yes.

14 And are you aware of any efforts undertaken  
15 by the FOMB to determine whether or not the  
16 Commonwealth had a balanced budget for fiscal  
17 years 2016 through the present?

18 I'm including all of those years.

19 MS. DeCAMP: Objection.

20 You can answer.

21 A I am not aware.

22 BY MS. JENNINGS:

23 Q You are not aware of any efforts?

24 A I'm not aware of any efforts.

25 Q You don't know whether there were any or were

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1 not; is that correct?

2 A Correct. I'm unaware of whether there were or  
3 were not any efforts undertaken.

4 Q Moving onto another topic which was in your  
5 30(b)(6) notice. What is the FOMB's knowledge  
6 about the amounts of clawback funds disbursed  
7 for uses other than the payment of general  
8 obligation debt for fiscal years 2018 through  
9 the present?

10 MS. DeCAMP: Objection.

11 You can answer.

12 A What is the knowledge of --

13 Can you repeat the question one more final  
14 for me.

15 BY MS. JENNINGS:

16 Q What is FOMB's knowledge about the amounts of  
17 claw-back funds disbursed for other use -- for  
18 uses other than the payment of general  
19 obligation debt for each fiscal year from 2018  
20 through the present?

21 A I'm unaware of what the FOMB's knowledge is on  
22 that topic.

23 Q And that's because you haven't spoken to anyone

24 at the FOMB regarding that topic; correct?

25 A Correct.

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1 Q At any point in time?

2 A To the best of my recollection -- correct? -- at  
3 any point in time?

4 Q And you did not attempt to speak to anyone at  
5 the FOMB regarding that topic; correct?

6 A To the best of my recollection, that's correct.

7 Q Did anyone from Proskauer during your prep  
8 sessions provide you any information to help you  
9 prepare to testify about the amounts of  
10 claw-back funds disbursed for uses other than  
11 the payment of general obligation debt?

12 MR. MERVIS: Note my objection to the form.

13 A To the best of my recollection, no.

14 BY MS. JENNINGS:

15 Q And did anyone from Proskauer tell you that  
16 Ms. Jaresko is the most knowledgeable person at  
17 the oversight board to answer questions  
18 regarding that issue?

19 MR. MERVIS: Again, I do have a potential  
20 work product concern, but if you'll agree --

21 MS. JENNINGS: Same agreement.

22 MR. MERVIS: Let me get it out so it's  
23 clear.

24 -- if you'll agree that if the witness  
25 answers that question, it's not a waiver of work

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1 product with respect to any other question or  
2 answer, then I'm fine.

3 MS. JENNINGS: That's agreed.

4 MR. MERVIS: Thank you.

5 Do you want to read it back? Could the  
6 court reporter just read it back.

7 (The requested text was read by the  
8 reporter.)

9 A To the best of my recollection, no, nobody at  
10 Proskauer told me that.

11 BY MS. JENNINGS:

12 Q Do you know what the FOMB's knowledge is  
13 regarding any efforts the FOMB took to evaluate  
14 the amounts of claw-back funds used for  
15 disbursements other than for the payment of  
16 general obligation debt?

17 A I'm not particularly aware of what the FOMB may

18 know on that topic -- may be aware of on the  
19 topic.

20 Q That's because you have not spoken to anyone at  
21 the FOMB regarding that topic; correct?

22 MS. DeCAMP: Objection.

23 You can answer.

24 A To the best of my recollection, that's correct.

25

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1 BY MS. JENNINGS:

2 Q And you did not attempt to speak to anyone at  
3 the FOMB regarding that topic; correct?

4 A To the best of my recollection, that is correct.

5 Q No one at Proskauer, during your prep sessions,  
6 provided you any information regarding that  
7 topic; correct?

8 MR. MERVIS: Note my objection to the form.

9 THE WITNESS: Can I answer, Antoinette?

10 MS. DeCAMP: Yes. Yes, you can answer.

11 A To the best of my recollection, no. No one from  
12 Proskauer provided information on that topic to  
13 me.

14 BY MS. JENNINGS:

15 Q No one at Proskauer during your prep sessions  
16 informed you that Ms. Jaresko was the most  
17 knowledgeable person on the board to answer  
18 questions regarding those efforts; correct?

19 MR. MERVIS: So I do have a concern that  
20 the answer to that question might invade  
21 attorney work product.

22 I'm happy to have the witness answer the  
23 question that's --

24 Taleah, you'll agree that in having him  
25 answer we're not waiving any work product claim

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1 other than with respect to that question and  
2 answer.

3 MS. JENNINGS: Agreed.

4 MR. MERVIS: Okay. If the court reporter  
5 could just read back the question.

6 (The requested text was read by the  
7 reporter.)

8 A To the best of my recollection, no, no one as  
9 Proskauer informed me of that topic.

10 BY MS. JENNINGS:

11 Q Do you know what the amounts of --



12 Do you know anything about the amounts of  
13 claw-back funds that were disbursed for uses  
14 other than the payment of general obligation  
15 debt during fiscal years 2016 through the  
16 present?

17 MR. MERVIS: Object to the form.

18 A I'm aware of one instance. I believe  
19 conditionally allocable. Those conditionally  
20 allocable revenues were used.

21 BY MS. JENNINGS:

22 Q Is that something you provided testimony about  
23 earlier today?

24 A It is.

25 Q Are you aware of any other amounts of claw-back

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1 funds that were disbursed for uses other than  
2 the payment of general obligation debt during  
3 those fiscal years 2016 through the present?

4 MR. MERVIS: I object to the form.

5 A I can only speak to the time when EY was  
6 engaged, beginning in the fiscal '18 process  
7 forward; so not fiscal '16 or '17.

8 In that time period, I'm only aware of that

9 one instance I testified it earlier in 2019 with  
10 the special resolution in which those funds were  
11 used.

12 BY MS. JENNINGS:

13 Q Do you know if there were ever any other  
14 instances where claw-back funds were used other  
15 than for the payment of general obligation debt?

16 MR. MERVIS: I object to the form.

17 A Again, in the time period that I can speak to  
18 from which EY was engaged to support the  
19 oversight board in its role as an adviser, that  
20 is the only time period I'm aware of.

21 BY MS. JENNINGS:

22 Q Do you know if there were any others, or you  
23 just don't know one way or the other?

24 A I'm not prepared to -- I can't speak to a time  
25 period before EY was engaged when the oversight

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1 board existed.

2 Q Sorry. Go ahead.

3 A No, I'm --

4 Q So from 2018 through the present, are you aware  
5 of any other instances other than the one that

6           you've talked about, or do you know one way or

7           the other whether there are any others?

8    A    I am not aware of another instance in which that

9           was the case.

10   Q   And do you know one way or the other whether

11          there have been other instances during that time

12          period?

13   A    I'm not aware of another instance other than

14          that one time in 2019.

15   Q   Do you think that is the only instance where

16          that occurred?

17   A    To the best of my recollection, I believe that

18          is the only time it has occurred.

19   Q   Just to finish that, you have not confirmed that

20          understanding with anyone from the FOMB;

21          correct?

22   A    To the best of my recollection, that is correct.

23               MR. MERVIS: How much more do you have? I

24          thought maybe -- it's been over an hour; so I

25          think it might make sense to take a break. But

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1           if you're --

2               MS. JENNINGS: Let me just finish up with

3           this one area. Then we can take a short break.

4   BY MS. JENNINGS:

5   Q   Were any efforts undertaken by the FOMB to  
6       evaluate the amounts of claw-back funds to  
7       disburse for uses other than payment of general  
8       obligation debt during the years 2018 through  
9       the present?

10           MS. DeCAMP: Objection.

11           You can answer.

12   A   I apologize for asking you to read that one more  
13       time.

14           The first part of the question. What was  
15       it you asked?

16   BY MS. JENNINGS:

17   Q   Were any efforts undertaken by the FOMB to  
18       evaluate the amounts of claw-back funds to  
19       disburse for uses other than payment of general  
20       obligation debt during fiscal years 2018 through  
21       the present?

22   A   I believe efforts were undertaken, yes.

23   Q   What efforts?

24   A   Efforts to determine the amount that would be  
25       needed in connection with that 2019 special

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1 resolution that I mentioned.

2 Q Other than that one specific example that you  
3 gave, are you aware of any other efforts?

4 A To the best of my recollection, I'm not aware of  
5 any other efforts that were undertaken.

6 Q Is it your understanding that that is the only  
7 effort undertaken by the FOMB during that time  
8 period to evaluate the amounts of claw-back  
9 funds to disburse for uses other than the  
10 payment of general obligation debt, or is it  
11 that you just don't have information?

12 MR. MERVIS: Object to the form.

13 A I do not have information on the topic.

14 MS. JENNINGS: Okay. Do you want to take a  
15 five- or ten-minute break?

16 MR. MERVIS: That would be good. Let's  
17 make it ten minutes.

18 THE VIDEOGRAPHER: We will go off the  
19 record at 4:15.

20 (A recess was taken.)

21 THE VIDEOGRAPHER: We're back on the record  
22 at 4:23.

23 BY MS. JENNINGS:

24 Q Mr. Chepenik, what is the FOMB's knowledge about

25 whether or not the Acts 30 and 31 incremental

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1 revenues, as that term is defined in your  
2 30(b)(6) notice, were diverted, retained,  
3 reallocated, or redirected during fiscal years  
4 2018 through the present?

5 MS. DeCAMP: Objection.

6 You can answer.

7 A I'm not positive what the FOMB's knowledge is on  
8 those topics.

9 BY MS. JENNINGS:

10 Q When you say "you're not positive," does that  
11 mean you have no knowledge of what the FOMB's  
12 knowledge is on those topic?

13 A I'm just not --

14 I'm not sure what their knowledge is.

15 Q Do you have any understanding as to what their  
16 knowledge is on that topic?

17 A I imagine that there's some knowledge on that  
18 2019 resolution that I mentioned, which involved  
19 petroleum tax revenues; so it's an Act 31  
20 revenue.

21 Q Anything else?

22 A Nothing else I can recall.

23 Q Do you know what the FOMB's knowledge is

24 regarding any other revenues of or due to the

25 HTA other than the Act 30, 31 incremental

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1 revenues, were diverted, retained, reallocated,

2 or redirected during fiscal years 2018 through

3 the present?

4 MR. MERVIS: Object to the form.

5 Excuse me. Object to the form.

6 A I'm unaware of what the FOMB's knowledge is on

7 that topic?

8 BY MS. JENNINGS:

9 Q That's because you have never spoken to anyone

10 at the FOMB regarding that topic; correct?

11 MS. DeCAMP: Objection.

12 You can answer.

13 A To the best of my recollection, that is correct.

14 BY MS. JENNINGS:

15 Q And including outside of the context of

16 preparing for your deposition; correct?

17 A To the best of my recollection, that is correct.

18 Q What is EY's knowledge about whether or not the

19 Acts 30 and 31 incremental revenues were  
20 diverted, retained, reallocated, or redirected  
21 during fiscal years 2018 through the present?  
22 A To the best of my knowledge, EY and I am aware  
23 of one instance in 2019 when those revenues were  
24 used to fund police and teacher salaries.  
25 Q Outside of that, do you know if there has been

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1 any other instances where that's occurred?  
2 A Where what has occurred?  
3 Q Where Acts 30 and 31 incremental revenues were  
4 diverted, retained, reallocated, or redirected?  
5 A I'm not aware of another instance.  
6 I'm not aware of another instance.  
7 Q Is it possible that there is another instance,  
8 or are you saying that there was no other  
9 instance?  
10 A I'm not aware of another instance.  
11 Q Have you confirmed that there have not been any  
12 other instances where that's occurred?  
13 A I have not.  
14 Q You've testified earlier that you read  
15 Ms. Lizette Martinez's report in connection with



16 your preparation to testify; correct?

17 A Correct.

18 Q Is there anything in her report, in her  
19 opinions, that you agree with?

20 MS. DeCAMP: Objection.

21 A When I read her report and I read Mr. Brickley's  
22 report, it was really a connection of trying to  
23 better understand these questions. I wasn't  
24 doing a very detailed review of her analysis in  
25 her expert report.

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1 So I don't have a point of view on what she  
2 submitted. I haven't reviewed the documents and  
3 such that shrewd.

4 BY MS. JENNINGS:

5 Q But you reviewed her report; correct?

6 A I did read through it briefly, yes.

7 Q Is there anything that you read in her report  
8 that you agree with?

9 A Not that I can recall, no.

10 Q Is there anything that you disagree with in her  
11 report?

12 A The notion of the connectivity and the notion of

13 the highway funding being redistributed back to  
14 HTA, I disagree with that, with that approach.  
15 I don't believe that's an accurate  
16 representation of how the budgets are  
17 constructed.

18 Q And why is that?

19 A Because they are not directly connected.

20 Q And where does that --

21 Where does your understanding come from in  
22 that regard?

23 A EY's knowledge and work on the budgeting process  
24 each year.

25 Q Anything else you disagree with in the report?

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1 MS. DeCAMP: Objection. Objection. That  
2 is not within the scope of the topics, but you  
3 can ask him for his personal opinion.

4 BY MS. JENNINGS:

5 Q You said it was a document that you reviewed in  
6 connection with preparing for the testimony; so  
7 I think it's fair game.

8 I will ask you in the context of the  
9 30(b)(6). You can make your objection and he

10 can answer the question.

11 MS. DeCAMP: I object. It is not -- it is  
12 EY's position that that is not within the scope  
13 of the topics, particularly given his testimony  
14 about the purpose for which he was reviewing the  
15 report.

16 But I will permit him to answer the  
17 question as an individual.

18 BY MS. JENNINGS:

19 Q Just for the record, I disagree, but you can  
20 answer the question. We can fight over it  
21 another time as to whether it's in your personal  
22 knowledge or within the scope your testimony  
23 here today as a 30(b)(6) witness.

24 A In my -- can you actually repeat the question  
25 one more time.

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1 Q Let me try to find it.

2 You identified one area in the Martinez  
3 report that you disagreed with, and I'm asking  
4 you is there anything else in the report that  
5 you disagree with?

6 A In my personal capacity, that's the one

7 connection that comes to mind. I do not recall  
8 another area that I disagree with in particular.  
9 Q You have not spoken to anyone from the FOMB to  
10 find out whether there have been any revenues of  
11 or due to the HTA that were diverted, retained,  
12 reallocated, or redirected during fiscal years  
13 2018 through the present in connection with your  
14 preparation to testify today; correct?

15 MR. MERVIS: Note my objection to the form.

16 A To the best of my recollection, that is correct.

17 BY MS. JENNINGS:

18 Q You haven't spoken to anyone from the FOMB  
19 outside of -- prior to preparing for your  
20 deposition regarding this topic; correct?

21 A With regard to which topic?

22 Q The one that we're discussing which is -- I can  
23 repeat it for you.

24 Whether there have been any revenues of or  
25 due to the HTA that were diverted, retained,

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1 reallocated, or redirected during fiscal years  
2 2018 through the present?

3 A I understand. Thank you for clarifying.

4           To the best of my recollection, that is  
5       correct. I have not.

6   Q   Ms -- withdrawn.

7           The Proskauer attorneys who attended your  
8       prep session did not provide you with any  
9       information in connection with these topics;  
10      correct?

11           MR. MERVIS: Objection to form.

12   A   In connection to which topics?

13   BY MS. JENNINGS:

14   Q   I'm sorry. This topic, the one that we just  
15       discussed. I can read it again if you need me  
16       to.

17   A   If you can, that would be helpful.

18   Q        "Whether there have been any revenues of or  
19       due to the HTA that were diverted, retained,  
20       reallocated, or redirected during fiscal years  
21       2018 through the present."

22           MR. MERVIS: Objection to the form.

23   A   That is correct. To the best of my  
24       recollection, they did not provide me any  
25       information on that topic.

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1 BY MS. JENNINGS:

2 Q You didn't try to get any information regarding  
3 that topic from anyone from the FOMB; correct?

4 A To the best of my recollection, I did not. No.

5 Q Did Proskauer inform you that Ms. Jaresko is the  
6 most knowledgeable person at the oversight board  
7 to answer questions regarding this topic?

8 MR. MERVIS: Again, I do have a possible  
9 work product concern, but I am fine with him  
10 answering the question so long as, Taleah,  
11 you'll agree it's not a waiver of work product  
12 claims with respect to any other question or  
13 answer.

14 MS. JENNINGS: Agreed.

15 MR. MERVIS: Do you need the question read  
16 back, Adam?

17 THE WITNESS: No.

18 A No. To the best of my recollection, no, nobody  
19 mentioned -- nobody from Proskauer mentioned  
20 that to me.

21 BY MS. JENNINGS:

22 Q Do you know, as you sit here as a 30(b)(6)  
23 witness, whether the FOMB undertook any efforts  
24 to evaluate whether to divert, retain,  
25 reallocate, or redirect revenues -- by

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1 "revenues," I'm limiting it to revenues of or  
2 due to the HTA?

3 MS. DeCAMP: Objection.

4 You can answer.

5 MR. MERVIS: Object to the form.

6 MS. DeCAMP: You can answer.

7 A To the best of my recollection, I'm not aware of  
8 those efforts.

9 BY MS. JENNINGS:

10 Q Are you aware of whether the FOMB has any  
11 knowledge about any efforts it undertook to  
12 evaluate whether to divert, retain, reallocate,  
13 or redirect revenues in that way?

14 A I'm only aware of one instance in 2019.

15 Q And other than that, you're not aware of whether  
16 the FOMB has knowledge of other instances;  
17 correct?

18 A I am not aware. That is correct.

19 Q You did not do anything to try to find out  
20 whether the FOMB has knowledge of other  
21 instances; correct?

22 A That is correct.

23 Q Proskauer did not provide you any information to  
24 help you testify on this topic; correct?  
25 A To the best of my recollection, I can't think of

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1 any information that was provided on the topic  
2 to me.

3 Q No one at Proskauer informed you that  
4 Ms. Jaresko is the most knowledgeable person on  
5 the board to answer questions about any such  
6 efforts undertaken by the FOMB; correct?

7 MR. MERVIS: I'm going to try a shorter  
8 version.

9 I'm all right with the witness answering  
10 that question so long as you agree, Taleah, that  
11 in providing an answer, there will be no waiver  
12 of any work product claim by the board as to any  
13 other question or answer.

14 MS. JENNINGS: Agreed.

15 MR. MERVIS: Do you need that back?

16 MS. JENNINGS: Ms. Court Reporter, can you  
17 please read that one back.

18 (The requested text was read by the  
19 reporter.)



20 A To the best of my recollection, that is correct.

21 No one at Proskauer informed me of that.

22 BY MS. JENNINGS:

23 Q Is Ms. Jaresko aware that you were providing

24 30(b)(6) testimony today?

25 MR. MERVIS: Object to the form.

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1 MS. DeCAMP: Objection.

2 You can answer.

3 A I have not had a direct discussion with

4 Ms. Jaresko about that, about that topic. It's

5 my understanding she is aware.

6 BY MS. JENNINGS:

7 Q And is your --

8 Does your understanding come from anyone

9 other than counsel for EY?

10 A No.

11 Q Did anyone direct you not to speak to

12 Ms. Jaresko about any of the 30(b)(6) topics?

13 MS. DeCAMP: Objection.

14 You can answer that "Yes" or "No."

15 A No.

16 BY MS. JENNINGS:

17 Q So you did not tell Ms. Jaresko that you were  
18 providing testimony at the 30(b)(6) deposition  
19 today?

20 A This morning I sent her a note saying I will be  
21 out of pocket for most of the day in my  
22 deposition, but that was purely just so she knew  
23 if she needed to contact someone on the EY team  
24 to contact one of my colleagues. Other than  
25 that one email note there's been no discussion

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1 with Natalie on the topic of my 30(b)(6)  
2 deposition that I was a part of.

3 Q And are you aware of whether she was a part of  
4 any -- this is a "Yes" or "No" question.

5 Whether Ms. Jaresko was a part of any  
6 discussions concerning this 30(b)(6) deposition.

7 Just a "Yes" or "No" question?

8 MS. DeCAMP: Object to the form.

9 A Yes.

10 BY MS. JENNINGS:

11 Q And do you know how many discussions she was a  
12 part of?

13 MS. DeCAMP: Objection.

14 A No.

15 BY MS. JENNINGS:

16 Q Did Ms. Jaresko ask you anything about the  
17 30(b)(6) deposition that you would be sitting  
18 for today?

19 A No.

20 Q Did anybody other than -- or who knows that  
21 you're here providing 30(b)(6) testimony today?

22 MR. MERVIS: Objection to the form.

23 A Well, I -- the people that I'm aware of that I'm  
24 aware are representatives from EY including my  
25 counsel, Ms. DeCamp; representatives from

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1 Proskauer, most of whom are here; Mr. Mervis;  
2 and then I don't know if the filing of the  
3 response was public and whoever could have  
4 pulled it from the public docket but that's  
5 generally who I'm aware of that are aware.

6 In that same email that I sent to Natalie  
7 this morning which was the first communication I  
8 had with her on the matter, I included her chief  
9 of staff and two other senior board staff  
10 representatives who I'm working with on

11 unrelated matters, but they're topical and  
12 timely, and so I wanted to make sure they knew I  
13 would be unavailable. That's all the people I  
14 can think of.

15 BY MS. JENNINGS:

16 Q So prior to your email today, are you aware of  
17 whether anyone from the FOMB knew that you would  
18 be providing 30(b)(6) testimony today?

19 A I am unaware of who may have known.

20 Q Putting aside their identities, do you know if  
21 anyone from the FOMB was aware that you would be  
22 providing 30(b)(6) testimony other than learning  
23 it from your email that you just described this  
24 morning?

25 A It's possible I may have mentioned it once or

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1 twice to one of the senior board staff  
2 representatives in the past. It was not in the  
3 context of providing information analysis. It  
4 was more than I couldn't respond to their  
5 questions because I was focused on this instead.

6 Q Who was that, that you had that conversation  
7 with?

8 A I wouldn't classify it as "conversations."

9 I would classify it as a "comment." The  
10 one person that comes to mind is Herman owe  
11 heyed da, one of the board staff members that I  
12 work with quite frequently on a number of  
13 topics.

14 Q When did you inform him of that or make that  
15 comment to him?

16 A Probably within the last week, I would say.

17 Q Is there anyone else at the FOMB who to my  
18 knowledge knew that you would be providing  
19 30(b)(6) testimony in connection with this  
20 matter?

21 A I believe the chief -- the chief of staff and  
22 deputy chief of staff are aware.

23 Q And when did they become aware?

24 MR. MERVIS: Object to the form.

25 A I believe they became aware when there were

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1 prior discussions with Ms. Jaresko that I was  
2 not a part of. Prior discussion about  
3 Ms. Jaresko or EY providing testimony as a  
4 30(b)(6).

5 BY MS. JENNINGS:

6 Q And when did that discussion take place, to your  
7 knowledge?

8 A To the best of my recollection, within the last  
9 month, maybe. Yeah.

10 Q How long did you know that you would be  
11 providing 30(b)(6) testimony in this proceeding?

12 MR. MERVIS: Objection to the form.

13 THE WITNESS: I can answer?

14 MS. DeCAMP: You can answer.

15 BY MS. JENNINGS:

16 Q Yes.

17 A Within the last month, I would say.

18 Q And when you say "within the last month," was it  
19 a month ago? Was it anytime within the past 30  
20 days? Give me some sense of what you're talking  
21 about?

22 A I honestly -- I don't recall the specific day  
23 and the specific week. I'm aware that there  
24 were conversations about whether EY was  
25 well-positioned to be the respondent and the

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1 need for EY to receive a subpoena requesting

2 testimony as a declarant in response to that  
3 said subpoena.

4 I don't know the timing of all that because  
5 I was not involved in those discussions. And I  
6 just recall that they all occurred really within  
7 the last, I would say, month. Maybe within the  
8 last two months at the most but that's really  
9 the last month that I recall.

10 Q Was it your understanding that if EY was going  
11 to provide a 30(b)(6), sit for a 30(b)(6)  
12 deposition, you would be the representative  
13 testifying at the deposition?

14 MR. MERVIS: Object to the form.

15 A I know there were some discussions internally  
16 about who the best positioned person would be,  
17 the most knowledgeable person would be, to be  
18 the respondent, and I was selected as that  
19 person.

20 BY MS. JENNINGS:

21 Q You're also designated as a witness who may  
22 provide testimony during the plan confirmation  
23 hearing; is that right?

24 A I am, yes.

25 Q And is your testimony going to concern any of

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1 the six topics identified on the 30(b)(6)

2 subpoena that was sent to EY?

3 We can pull those up, if you need it. Do

4 you need it?

5 MR. MERVIS: Well, he wasn't -- Taleah, he

6 wasn't noticed about his trial testimony.

7 MS. JENNINGS: I'm asking about topics

8 relating to this 30(b)(6). So why don't we get

9 the 30(b)(6) notice up so he can see it.

10 MR. GARCIA: I can get it up on the screen.

11 Alejandro, please.

12 BY MS. JENNINGS:

13 Q Let's look at Topic 1. Just take an opportunity

14 to look at that Topic 1.

15 A So I have not been noticed --

16 MR. MERVIS: Hold on. There's no question,

17 as far as I can tell.

18 BY MS. JENNINGS:

19 Q Have you read Topic 1?

20 A I have.

21 Q And with regard to --

22 You're going to be submitting a declaration

23 in connection with the plan confirmation



24 hearing; correct?

25 MS. DeCAMP: That's a "Yes" or "No."

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1 A Yes.

2 BY MS. JENNINGS:

3 Q And is the testimony in your declaration going  
4 to concern at all the topic that is identified  
5 here as Number 1?

6 MR. MERVIS: So I object. I don't  
7 understand why in this deposition it's  
8 appropriate for you to ask that question. I  
9 mean --

10 Look, I object.

11 MS. JENNINGS: Put it this way -- why don't  
12 we do it this way: I may come back to 1, but  
13 why don't we start with 2, which is a topic you  
14 are here to discuss.

15 MR. MERVIS: Well --

16 MS. JENNINGS: Let me get my question out.  
17 You may have the same objection, you may not.  
18 I'll certainly have a different answer to your  
19 objection with regard to 2.

20 MR. MERVIS: Fair enough.

21 BY MS. JENNINGS:

22 Q Why don't you take a look at Topic 2 and read  
23 that.

24 A Okay. I've read it.

25 Q Okay. And will you be providing any testimony

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1 in your declaration regarding the topic listed  
2 here under -- with the Number 2?

3 MS. DeCAMP: "Yes" or "No."

4 MR. MERVIS: Also, let me --

5 I object to the form. The difficulty --  
6 this topic in my mind is unintelligible or close  
7 to it. It's a pretty --

8 MS. JENNINGS: Let's not have speaking  
9 objections. You're getting into a speaking  
10 objection, and I want to cut that short --

11 MR. MERVIS: Yeah, let's not --

12 MS. JENNINGS: -- because it guides the  
13 witness.

14 If you have an objection, then let's talk  
15 about it, but regarding, you know, what you're  
16 saying right now is inappropriate.

17 MR. MERVIS: I have an objection which is

18 that this question goes beyond the scope of  
19 these topics that the witness was noticed for.

20 MS. JENNINGS: I'm talking about a topic  
21 that he was noticed for.

22 MR. MERVIS: That doesn't make it  
23 appropriate. That doesn't make it appropriate  
24 about asking him what his trial testimony --

25 MS. JENNINGS: Why don't you guys decide

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1 whether you're going to direct him not to  
2 answer. I'm going to stand by my question.  
3 It's directly related to the topics that he's  
4 here for and whether -- if he's testifying about  
5 something relating to the topics, then I want to  
6 know what that testimony is going to be because  
7 it should be disclosed in connection with this  
8 topic that's listed here that he is prepared and  
9 designated to testify about.

10 BY MS. JENNINGS:

11 Q So I'll ask again: Is the subject of your  
12 declaration, does it concern at all testimony  
13 relating to Topic Number 2?

14 MS. DeCAMP: I object to the question as

15 outside the scope of the deposition topics, but,

16 Adam, you can answer that "Yes" or "No."

17 MR. MERVIS: I object to the form.

18 A Can you read the question.

19 BY MS. JENNINGS:

20 Q Yes.

21 Why don't you read Number 2. Does your

22 declaration that --

23 Have you already started to read your

24 declaration?

25 A I have, yes.

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1 Q And the testimony contained in your declaration,

2 does any of it relate to Topic Number 2?

3 MR. MERVIS: I object. The way that's

4 phrased, I would ask that the witness not answer

5 that question.

6 I was okay with the way you did it before,

7 but that's a direct invasion of work product.

8 THE WITNESS: Antoinette, can I --

9 MS. DeCAMP: Could you read back the

10 question.

11 MS. JENNINGS: Let me ask a better

12 question. I think I know where Mr. Mervis -- I  
13 think I see his problem.

14 MR. MERVIS: Yeah, you probably do.

15 BY MS. JENNINGS:

16 Q Are you going to provide testimony in the plan  
17 confirmation hearing, to the best of your  
18 knowledge, regarding Topic Number 2?

19 MS. DeCAMP: "Yes" or "No."

20 MR. MERVIS: Just I object to the form. I  
21 have no other concern right now.

22 A To the best of my knowledge, no.

23 BY MS. JENNINGS:

24 Q And same question for Topic Number 3.

25 MS. JENNINGS: Are you able to scroll down

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1 a little bit so the full 3 is showing?

2 Thank you.

3 BY MS. JENNINGS:

4 Q Are you going to be providing testimony at the  
5 plan confirmation hearing regarding Topic  
6 Number 3?

7 MS. DeCAMP: Same objection. You can  
8 answer "Yes" or "No."

9 MR. MERVIS: And I object to the form.

10 A To the best of my knowledge, no.

11 BY MS. JENNINGS:

12 Q And let's move to Number 4. Is it your  
13 understanding that you will be testifying  
14 regarding the topic -- at the plan confirmation  
15 hearing regarding the topic listed here on this  
16 30(b)(6) subpoena as Topic Number 4?

17 MS. DeCAMP: Same objection.

18 You can answer "Yes" or "No."

19 MR. MERVIS: Same objection to form.

20 A To the best of my knowledge, no.

21 BY MS. JENNINGS:

22 Q And with regard to Number 5, same question: Is  
23 it your understanding that you'll be providing  
24 testimony regarding this topic at the plan  
25 confirmation hearing?

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1 MS. DeCAMP: Same objection.

2 You can answer "Yes" or "No."

3 MR. MERVIS: I have the same objection to  
4 form.

5 A To the best of my knowledge, no.

6 BY MS. JENNINGS:

7 Q And same question with regard to 6.

8 MS. DeCAMP: And same objection.

9 You can answer "Yes" or "No."

10 MR. MERVIS: Same objection to form.

11 A To the best of my knowledge, no.

12 MS. JENNINGS: Let's scroll back up to

13 Number 1.

14 BY MS. JENNINGS:

15 Q Will you be providing testimony, to the best of

16 your knowledge, at the plan confirmation hearing

17 regarding Topic Number 1?

18 MS. DeCAMP: Same objection.

19 You can answer "Yes" or "No."

20 MR. MERVIS: And same objection to form.

21 A To the best of my knowledge, no.

22 MS. JENNINGS: I probably am done. I just

23 want to look over my notes. Maybe a five-minute

24 break would help.

25 MR. MERVIS: That's fine. We'll come back

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1 at --

2 MS. JENNINGS: 5:00.

3 MR. MERVIS: -- 5:00.

4 THE VIDEOGRAPHER: I'll take us off the  
5 record at 4:55.

6 (A recess was taken.)

7 THE VIDEOGRAPHER: Back on the record at  
8 5:00 PM.

9 MR. MERVIS: I don't know. Is Taleah  
10 actually on the -- maybe not.

11 MR. GARCIA: She's going to be on in a  
12 minute. Sorry about that.

13 MR. MERVIS: I have no questions.

14 THE VIDEOGRAPHER: Ms. Jennings, we are now  
15 on the record. You may proceed.

16 BY MS. JENNINGS:

17 Q Mr. Chepenik, I have no further questions at  
18 this time.

19 MS. JENNINGS: I, like Mr. Garcia, reserve  
20 all rights on behalf of my client. I think  
21 that's enough to say while we're in the presence  
22 of you.

23 Okay. Arturo, you're on mute. I will want  
24 to say something before we close the record, but  
25 anyone else who needs to ask questions, I guess



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1 we can open it up for them.

2 MR. GARCIA: I also don't have any further  
3 questions; so does anybody in the deposition,  
4 any other party have any questions of  
5 Mr. Chepenik?

6 I will take that as a no; so Taleah?

7 MS. JENNINGS: I just want to state for the  
8 record, and Mr. Chepenik can stay or he can go  
9 for this.

10 MR. MERVIS: For the record -- hold on.  
11 For the record, he can sign off. You don't need  
12 to waste time.

13 MS. JENNINGS: Who doesn't need to waste  
14 time?

15 MR. MERVIS: Adam.

16 MS. JENNINGS: Oh, yes. I don't need Adam.  
17 We're closed with regard to Adam.

18 MR. GARCIA: Mr. Chepenik, thank you very  
19 much for your time today. Good to meet you.  
20 And coffee on me next time you're in San Juan.

21 THE WITNESS: Certainly, Mr. Garcia. The  
22 board's offices are right next to yours, I  
23 believe.

24 MR. GARCIA: I know. I know they are. And

25 we will not discuss anything with regard to your

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1 testimony or the PROMESA case.

2 Thank you.

3 THE WITNESS: Bye-bye.

4 MS. JENNINGS: I do want to stay on the  
5 record for a minute.

6 MR. MERVIS: Yeah. Yeah, I didn't think  
7 Adam needed to be --

8 MS. JENNINGS: I just want to state for the  
9 record, you know, it's clear that  
10 Mr. Chepenik -- Chepenik, excuse me, did not  
11 prepare to testify in the way that the parties  
12 have agreed that he would be here to testify.

13 He did not try to determine anything within  
14 the FOMB's knowledge.

15 As you know, we served an initial 30(b)(6)  
16 on the FOMB. We were told that a representative  
17 from EY was best situated to testify on those  
18 topics and that you would be -- FOMB would be  
19 sort of coordinate an EY representative  
20 testifying in response to our 30(b)(6) subpoena  
21 to the FOMB.

22 And I think --

23 I can actually quote during one of our  
24 meet-and-confers on this issue, when we said we  
25 would be going to court, it was, you know, a

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1 Proskauer representative said, "It's just a  
2 piece of paper. You are getting the 30(b)(6)  
3 that you want from the FOMB. It's just a piece  
4 of paper. Someone from EY will be here to  
5 testify, but they need a subpoena because of  
6 their internal protocols and processes and  
7 procedures."

8 So I am disappointed in what happened today  
9 and what Mr. Chepenik was not prepared to do  
10 today, and I think absent -- you know, because  
11 of the schedule right now, how tight it is, we  
12 think we need to go to court very quickly on  
13 this, I want to open up the floor for a  
14 meet-and-confer so that if there's, you know,  
15 something you guys want to do to fix the  
16 situation, you can.

17 But right now, we feel like we were misled  
18 to walk away from the FOMB 30(b)(6,) and we are

19 not too happy about it.

20 MS. DeCAMP: Wait. Ms. Jennings, can I  
21 make one comment, and then I'll sign off because  
22 this is really more of a discussion between  
23 Proskauer and the DRA parties.

24 It is Ernst & Young's position that the  
25 witness was adequately prepared to testify to

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1 the topics as they relate to the work that  
2 Ernst & Young did for the board, which is  
3 what -- how I read the stipulation.

4 You guys can have your discussions either  
5 way.

6 Ernst & Young is taking the position that  
7 we fulfilled our obligation in producing a  
8 witness for purposes of this -- for purposes of  
9 this deposition.

10 I note it is 5:05, and we've been going  
11 since 9:30 this morning with a couple of breaks,  
12 including an hour break for lunch; so I believe  
13 six -- more than six hours of testimony kind of  
14 evidences that the witness was prepared to  
15 testify regarding the topics.

16           There were five topics, six hours of  
17           testimony. We believe EY was -- the witness was  
18           adequately prepared.

19           I think any other discussions -- I don't  
20           need to be part of because that really is  
21           between the parties. Ernst & Young is not a  
22           party in this matter; so unless anyone has any  
23           objection, I also will sign off and leave the  
24           rest of any meet-and-confer discussions to you  
25           guys.

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1           MR. GARCIA: Ms. DeCamp, before you leave,  
2           I would like the videographer to let us know how  
3           much time has elapsed.

4           THE VIDEOGRAPHER: We've been on the record  
5           for five hours and 22 minutes and counting.

6           MR. GARCIA: Okay. All right. That was my  
7           guesstimate. So five hours, 24 minutes.

8           Taleah, go ahead.

9           I don't have anything else for you,  
10          Ms. DeCamp. I wanted for you to understand how  
11          much time is spent.

12          MS. DeCAMP: Thank you, Mr. Garcia. I

13 appreciate it.

14 MR. GARCIA: Thank you very much, by the  
15 way.

16 MS. DeCAMP: Sure. Bye.

17 MR. MERVIS: So my colleague, partner,  
18 Margaret Dale, is on the video. I have my own  
19 thoughts about what you said, Taleah, but I'll  
20 let Margaret, I'm sure she'll express them more  
21 eloquently.

22 I'll turn the floor over to her.

23 MS. DALE: Thanks, Mike. This is Margaret  
24 Dale.

25 Taleah or Ms. Jennings, however we're doing

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1 this, we disagree with your position. You were  
2 not misled.

3 We told you from the get-go that someone at  
4 EY would be in the best position to answer these  
5 topics on behalf of the board, and we said we  
6 would adopt that testimony in its entirety.

7 That's what we've done. And so I don't  
8 have time -- I'm already past my 5:00 that I  
9 stayed on for this because I figured you were

10 about to make some statement on the record.

11 So I'm happy to have another  
12 meet-and-confer, if you want to, tomorrow, can't  
13 do it tonight, if that makes sense. If not, you  
14 can make whatever application you want to the  
15 Court, and we will address it.

16 I believe in the stipulation that you  
17 signed, you indicated that you would not be  
18 making any further efforts to change any kind  
19 of -- the schedule.

20 And so I'm not sure exactly what you're  
21 looking for. But as I said, happy to talk  
22 later, tomorrow, if that makes sense; and if it  
23 doesn't make sense, we'll just respond to your  
24 request to the Court.

25 MS. JENNINGS: Yes. I mean, you have other

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1 colleagues if you have to jump. I understand.

2 We're all busy.

3 If there's one of your other colleagues who  
4 wants to continue discussing; if not, then I  
5 think we are really -- there's nothing more to  
6 discuss if you're not going to produce an

7 appropriate 30(b)(6) witness in response to our  
8 30(b)(6) notice to the FOMB, who actually has  
9 knowledge and educates themselves on the FOMB's  
10 knowledge, then I think really the only thing  
11 left for us to do is go to court on it.

12 MS. DALE: Okay. You take whatever steps  
13 you need to. Thanks a lot.

14 MS. JENNINGS: Thank you.

15 MR. GARCIA: Thank you, all.

16 MR. MERVIS: So we're off the record now?

17 MR. GARCIA: Michael, for the record, I  
18 fully agree with Taleah. I think that the  
19 witness -- contrary to what Margaret is saying,  
20 I don't think the witness -- especially the last  
21 round of questions, I don't believe the witness  
22 was properly prepared to be a 30(b)(6) witness.

23 And I don't believe that you have complied  
24 with the provisions of the stipulation as so  
25 ordered by the Court. But, you know, we'll

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1 discuss that further, and if need be, we'll come  
2 back to you and go to court, if we have to.

3 MS. DALE: Okay.



4 MR. MERVIS: Bye, everyone.

5 THE VIDEOGRAPHER: I'll officially take us

6 off the record at 5:09. Thank you.

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